United States Court of Appeals for the Second Circuit



APPENDIX

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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Docket No. 75-6079

6079

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, and THE CITY OF NEW YORK,

Plaintiffs-Appellees,

-against-

LOCAL 638 . . . LOCAL 28 OF THE SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION, LOCAL 28 JOINT APPRENTICE-SHIP COMMITTEE . . . SHEET METAL AND AIR-CONDITIONING CONTRACTORS' ASSOCIATION OF NEW YORK CITY, INC., etc.,

Defendants-Appellants.

LOCAL 28,

Third-Party Plaintiff,

-against-

NEW YORK STATE DIVISION OF HUMAN RIGHTS,

Third-Party Defendant.

LOCAL 28 JOINT APPRENTICESHIP COMMITTEE,

Fourth-Party Plaintiff,

-against-

NEW YORK STATE DIVISION OF HUMAN RIGHTS,

Fourth-Party Defendant.

OCT 10 1975

OANIEL MUSARO, CLERK
SECOND CIRCUIT

On Appeal From The United States District Court For The Southern District of New York

JOINT APPENDIX - Volume 4 of 4

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791-1966

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October 10, 1975

PAGINATION AS IN ORIGINAL COPY

		1585
1	arjw 21	Mitchell-cross
2	2	At the end of three months, where were you
3	assigned, if	anyplace?
4	A	I was assigned back to the shop.
5	Q	Back to the shop?
6	A	Right.
7	. Q	Anybody else come back to the shop with you?
8	A	Yes.
9	Q	How many people?
10	A	I think one apprentice came right back along
11	with me.	
12	Q	Any journeymen?
13	A	I think some more journeymen.
14	Q	They came back with you?
15	. A	After.
16	- Q	You and an apprentice and several journeymen
17	came back to	the shop, is that true?
18	A	Yes.
19	_ Q	About three months after you started working
20	on the outsi	de?
21	A	Yes.
22	Q	When you came back to the shop at that time,
23	what kind of	work did you do?
24	. A	I assembled a while and went back on the bench.
25	. Q	What were you assembling?
		620

You can do it all, can't you?

That is true.

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A

Q

1	arjw 23	Mitchell-cross 1587
2	A	That is true.
3	Q	The journeymen who work in your shop can
4	do all the o	ther work too?
5	A	That is true.
6	Q	And they can do your bench work?
7	. А	Well, put it this way: Some of the guys,
8	anybody gets	a little cutting knowledge but then not
9	everybody is	as good as the others. That you can classify
10	as a real cu	tter, a regular man.
- 11	Q	You believe you can cut bettern than somebody
12	else?	
13	A	I know that.
14	Q	Good.
15		Now, how long did you stay in this shop
16	between the	assembling and the bench, when you came back?
17	A	I stayed in the shop, I think it was a week
18	or two and t	hen things got a little slow again.
_19 -		They had some jobs on prints but they didn't
20	get them to	come right through.
21	Q.	You were in the shop about a week or so?
22	A	Yes.
23	Q .	Then you say it got a little slow and you were
24	sent outside	?
25	A	Up to the Bronx.

Woods-direct

I did that practically the whole time I wa up there.

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Q What did the other two people do that came with you?

1	arjw 25 Mitchell-cross
2	A More or less spread them around.
3	Q Other kinds of work?
4	A Yes. Some of the guys went to the fan room,
5	I think the fifth floor.
6	Some of the guys went to do different things
7	a big job up there.
8	Q How long did you remain on that job?
9	A I think I stayed up there about a week or
10	two.
- 11	Q What happened after a week or two?
12	A Went back to the shop.
13	Q When you came back to the shop, what work
14	were you assigned?
15	A I worked out on the floor a while assembling.
16	Q What kind of work?
17	A Assembling fittings and stuff.
18	Q How long did you do that?
19-	_ A I would say about a week or two and then I
20	got back on the bench and started cutting.
21	Q That cutting, did you do that before?
22	A Right.
23	Q . When you came back into the shop this time,
24	did any journeymen or apprentices come back with you into
25	the shop?

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A Yes.

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true?

rotating jobs or interchanging jobs in the shop; is that

During this time, were the other people

	1591
1	arjw 27 Mitchell-cross
2	Q How long did you remain onthe bench at that
3	time?
4	THE COURT: Mr. Bogen, I am not going to
5	let you go on with this thing interminably. You understand
6	that? In other words, I am not going to let you take
7	him through every week of his career up until the present
8	day because it is repetitive. It is productive of
9	nothing and we have done it three or four times.
10	MR. BOGEN: I will bring it to an end,
- 11	your Honor.
12	Q From the time that you went, has to the
13	bench as you just described to the present day, have you
14	done other work for Federal?
15	A From the time I went back to the bench up
16	until now?
. 17	Q Have you done any other things?
18	A Something happened at the time between now
19 -	_and then.
20	In other words, the foreman retired, the
21	super and the head cutter became the super and I became
22	the head cutter. In other words, a changeover. In
23	other words, new things, you can run into a lot of things.
24	Q You remained head cutter ever since?
25	A Right.

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		1002
	1	arjw 28 Mitchell-cross/redirect
	2	MR. BOGEN: I have no further questions,
	3	your Honor.
C'	4	REDIRECT EXAMINATION
xxxxxx	5	BY MR. CORSI:
	6	Q Mr. Mitchell, you described for Mr. Bogen
	7	what occurred in terms of changing jobs back in early 1960
34	8	and on forward.
	9	At that time that you moved from I believe
	10	Colony Metal to Rotodyne
-	11	A Which was Brooklyn Blower.
	12	Q At that time did you know of the existence
	13	of Local 28?
-	14	A Yes.
	15	Q At that time, did you apply to Local 28?
	16	- A No.
	17	Q Is there any reason why you did not apply to
	18	Local 28?
	_ 19 -	A Well, I'll put it this way: From what I
	20	know from my recollection back then, I heard that it was
	21	a father and son thing, you had to be a relative to become
	22	a member. And otherwise that threw me out.
· .	23	Q Why would you be thrown out?
	24	A That threw me out, I didn't have any relatives
	25	MR. CORSI: That is all, your Honor.

	1	arjw 30 Mitchell-recross 1504
	2	A Around that time.
	3	Q After you came to Local 28 you had four
5	4	jobs, National, Brooks, M& E and Federal?
	5	A True.
	6	Q What difference if any is there in your
•	7	ability to get employment now that you are in Local 28
- ,	8	from the time that you were in Local 400?
	9	A In Local 400, sometimes it can be a hassle
	10	getting a job. Sometimes you have to go down to the Union
.5	- 11	hall and sometimes you are able to work your way up and
	12	get into the Union after.
	13	In Local 28 you have to be a Union man.
	14	Q What difference in your ability to have more
	15	employment opportunities?
	16	MR. BOGEN: Objection, your Honor.
	17	THE COURT: It is answered.
	18	Q You said when you were at Rotodyne the men
· · · · · · · · · · · · · · · · · · ·	19 -	you worked with were practically all blacks?
	20	A Right, in the sheetmetal department. You had
	21	other white men doing certain other jobs.
-	22	Q How many blacks were in the sheetmetal
	23	department?
	24	A About 10 or 12, I would say, helpers and

everybody else.

1	arjw 31	Mitchell-recross 1595
2	0	Out of how many?
3	A	I would say out of 30 or 40 head of men.
4	Q	Out of 30 or 40 they had 10 or 12 blacks?
5	A	Yes, Spanish speaking. You had practically
6	all differen	t nationalities.
7	0	You said Spanish. I realize there is a
8	difference.	Putting the blacks and Spanish speaking
9	together, ho	w many would you say were in the sheetmetal
10	. department?	
. 11	A	Then you would go higher. You would approxi-
12	mately have	maybe 15 or 20 head.
13	Q	15 or 20 out of 30 or 40?
14	A	Yes.
15	Q	What difference, if any, was there in the
16	racial compo	sition of the shops you worked in in Local
17	400 and the	shops you worked in when you were in Local 28?
18	A	It was a large percentage of blacks I would
19 -	say.	
20	Q	Where?
21	A	In the particular shops.
22	Q	In which local I asked you?
23	Α .	What I am saying now, it is a higher percent-
24	age of black	s in Local 400 than in Local 28.
25	Q	What difference in the work you were doing?

T4pm	1	ARjw 1 1630
•	2	HENRY WOODS, called as a
	3	witness on behalf of the Plaintiffs, being first
0	. 4	duly sworn, was examined and testified as follows:
	5	DIRECT EXAMINATION
xxxxx	6	BY MR. CORSI:
	7	Q Mr. Woods, what is your address?
	8	A 20 Park Avenue, Roosevelt, Long Island.
	9	Q How old are you?
	10	A Thirty-t o.
	11	Q How long have you been living in New York?
	12	A From 1959.
	13	Q How much schooling have you received, sir?
	14	A Eleven years of schooling.
	15	Q What is your occupation?
	16	A I am a sheetmetal mechanic.
	. 17	Q Are you a member of a union?
	. 18	A Yes, Local 28.
	19	Q When did you become a member of Local 28?
	20	A I became a member of Local 28 in 1969.
	21	Q Prior to that time, were you a member of
0.	22	another union?
	23	A Yes, Local 400.
	24	Q Were you williated with a particular division
	25	of Local 400?

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A Well, I was told it was a production local,
Local 400 was, different from Local 28.

Q What shop were you working in?

A I was working at Rotodyne.

Q When did youfirst start to do sheetmetal work?

A I started in sheetmetal work in 1964. I began in a shop, Arlington Blower, a non-union shop.

Q What kind of work did you do at Arlington Blower?

A When I first started there I was a mechanics helper. I was fabricating like assembling, putting the pieces together.

Q What kinds of things did you work on when you were at Arlington Blower?

A We worked on round work, did rectangular work. We made different things like dust collectors, spray boots, practically all types of sheetmetal work that is used for air conditioning.

Q When you were at Arlington, are you testifying that you did some air conditioning work?

A Yes, I did.

Q How long did you remain at Arlington?

A I remained there about a year and a half.

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They went out of business.

What did you do after they went out of business?

Then the company went in with Rotodyne which A was Brooklyn Blower.

When approximately was that, sir?

Approximately around 1965, I would say, 1965, 1966.

At the time that you worked at Rotodyne, were you a member of a union?

At the time I first started there it was not a Union shop, but became a Union shop about a year after that.

- Did you join the Union? Q
- A I joined the Union.
- What Union was that?
- A Local 400.
- What position did you hold when you joined Q the Union, what status?

They started the apprenticeship program so I was an apprentice. I started off the first time as an apprentice.

- How long did you remain an apprentice? Q
- For four years until I graduated, which was

Q When you were at Rotodyne, what type of work did you do for that company?

A We did round work, duct work, rectangular work, the same. The same as I am doing at present.

Q What kind of systems did you work on when you were at Rotodyne?

A The systems they had was the mechanics would do the cutting and the apprentices was learning, we had to fabricate. We assembled the pieces together.

Q What kind of pieces did you assemble?

A That was square duct, 45 degree elbows, round elbows, there was 90 degree elbows, square, rectangular and we did transformers, going from square to round.

We did practically all the type of sheetmetal work that I have seen so far.

Q Did you work inside or outside or both?

A I worked inside the majority of the time.

I worked outside for a few weeks, but not long.

Q What type of work did you do when you were on the outside?

A I was working with another mechanic just installing the duct work.

Q What tools did you use when you were an

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apprentice and working in Rotodyne?

The tools I used was combination square, trammel points, which are dividers, 10-foot tapemeasure, avaiating shears, which is left and right. Also a larger square, a bulldog, and a unishear for cutting pieces of metal with and a large square, combination square, two foot.

- Were there machines at Rotodyne?
- Yes.
- What types of machines?

Pittsburgh Lock formers which are used for ducts when they were made up, they have a quarter-inch that fits into the lock form and locks it over to keep the duct, hold it together.

We had a power brake, power shears, we had hand brakes, snap lock machine, which is the same as a Pittsburgh, but only a faster method. You don't have to knock it down.

- That is fine. Q
- Practically standard equipment we had.
- I believe you testified that in 1969 you became a member of Local 28?
 - Right. A
 - Since that time, what companies have you worked

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for?

A Since I became a member of Local 28, my

first job was at Atlas Sheetmetal, located in the Bronx.

I worked there about a year and a half.

Q That would be starting sometime in 1969?

A I started in 1969. I worked I think from 1969 to 1970 or 1971.

Then a friend of mine told me that he knew a company that needed a cutter and was giving out extra money plus holidays and naturally I wanted the job. I told him yes.

I went to the guy and talked to the guy and then came back and told Atlas I was leaving them. I left and went to Romar Sheetmetal.

- Q How long did you stay at Romar?
- A For about a year, I think 1972 up to 1973.
- Q Then what did you do?
- A There at Romar I was a cutter, I put forms together. I guess I was like an assistant foreman also.
 - Q How long did you stay at Romar?
- A I stayed there a little over a year. Then after that we got slow and I heard that Viking Sheetmetal, they were looking for good mechanics and I went there.

 They was offering more because each company, they can give

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1	arjw 7	Woods-direct 1636
2	you over scale	if they want to. They offered me more
3	, money over sca	le than I was making.
4	Q A	pproximately when was that?
5	A A	pproximately 1972 I would say.
6	Q H	ave you changed jobs since then?
7	A N	o, I have been with Viking ever since.
8	Q N	ow, when you were at Atlas, what kind of
9	work did you d	o for them, just briefly?
10	A T	hey had me on the knock down table knocking
11	fittings toget	her with the hammer.
12	Q W	hat type of fittings?
13	A R	ectangular, square mostly square.
14	Q W	as the work that you were doing at Atlas
15	any different	from the work that you were doing at either
16	Rotodyne or Ar	lington Blower?
17	A N	o.
18	. Q W	ere the skills that you were using at that
19	time when you	were working at Atlas, were they different
20	than the skill	s you were using at Arlington Blower or
21	Rotodyne?	
22	A N	o, the same skills.
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What did you do when you were at Romar?

You moved over to Romar?

Right.

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A I was a cutter, like they could give me a job sheet, a ticket, and from there I would get the material that I needed to make the piece up and from there I would lay it out, lay out the pattern for the piece I need, form it and put it together.

Q Were you a cutter pretty much the whole time that you were at Romar?

A Yes.

Q Did you do anything outside?

A For about one day I worked outside.

Q From the work that you were doing at Romar, was that any different from the work that you were doing at Arlington or Rotodyne?

A No, no different.

Q Were the skills that you used to do that work any different from the skills that you used to do the work at Arlington Blower or Rotodyne?

A No, the skills was no different.

Q You have been at Viking for a couple of years now?

A Right.

Q What type of work, briefly, have you done at Viking?

A I was doing approximately the same, I was a

together and one of the cutters got laid off or quit so 4 they put me in the position on the bench as cutter.

Afterwards he came back -- I stayed there a while on the bench but they got slow and made him foreman and he told me, asked me, we are getting slow with cutters, we will have a layoff soon. I would like to keep you, I would like to make you a welder if you want to stay and become a welder. You can stay here.

Prior to this time had you done any welding for Viking?

No.

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Had you done any welding for any other company?

Romar, very little.

When the foreman offered you or said to you that he would put you on the welding spot, did you tell him that you had done very little welding?

Yes, I told him.

Did you take the job as welder?

Right. A

How long did it take you to become familiar Q with the welding that you were asked to do?

Well, I figure four or five days at the most.

1	arjw 10	Woods-direct 1639
2	Q	During the four or five day period, did you
3	· have any com	plaints about the work that you were doing?
4 0	A	No, never.
5	Q	Had any complaints about your welding work?
6	A	No, never.
7	Q	In your opinion, did the instruction that
8	you received	in the Local 400 apprentice program adequately
9	prepare you	for the work that you had done since you have
10	been in 28?	
11		MR. BOGEN: Objection, your Honor.
12		THE COURT: Read the question back.
13		(Question read)
14		THE COURT: I will let him answer.
15	Q	You may answer, Mr. Woods.
16	A	Yes.
17	Q	Mr. Woods, do you know who Mel Farrell is?
18	A	Yes, Mel Farrell was president of Local 28.
19	Q	Did you ever meet him?
20	A	Yes.
21	Q	When was that, sir?
22	A	I met Farrell in 1969, just before the test.

What test are you talking about?

This was the journeyman test to become a

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member of Local 28.

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Q Where did you meet Mr. Farrell?
A Well, myself and a few guys that were working

at Rotodyne, somebody found out that Local 28 was giving out permits to out-of-town guys to work. So we got together and decided we would go down and see if we could get a permit for work in Local 23.

Q Why did you want to get a permit to work in 28?

A Because Local 28's scale was higher than Local 400, the pay scale was. I would like to make some money too.

Q A group of you got together and what happened?

A We went down to see Mel Farrell, went to the office two or three times and was told he was out.

So then we went to Local 400 and had the president of Local 400, Lou Commarato, call Mel Farrell's office and when he answered, Lou Commarato told Mel Farrell some of the guys was coming down for a permit to work in Local 28.

From there we went there and spoke to Mel Farrell. He told us -- we sat down and talked. He told us that under any circumstances they will not give out permits and the only way we could get in Local 28 was to take the journeyman test.

We also asked if we could transfer into Local
28 because we said it was in the same International
Association and why couldn't we transfer, which he said
because you are in a different local, which is a production
local. The only way you can come into 28 is unless you
take the test. That was it.

Q Did he ask you any questions about your work background?

A I think he asked what company we were from.
We told him from Rotodyne.

Q After these discussions, what, if anything, did you do?

A We put in an application to take the test before we went down there. So we was notified, I think, in October, NOvember, to come when the test was to be taken.

So we went down and took the test and the majority all passed the test, a written test.

Then there was a practical test of which I think only four of us passed, two other guys didn't pass the practical test which consisted of making up a fitting.

Q After you passed the written and practical test, did you have to do anything else? Did you do anything else before you became a member of 28?

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Now, at the time that you took the test, this is the '69 test, were you a journeyman or an apprentice at 400?

A I was a journeyman. I just had been graduated from Local 400 before I took the test for Local 28.

Q And prior to taking this test, had you ever taken any other test for Local 28?

A I had filed an application in 1968 which I came down --

Q This was in '68. What test was this, do you know?

A This was a journeyman test also for Local 28.

I think the test started 8:30. I think it was 8:30.

But I had trouble finding a parking space for my car.

I had to walk something like eight or nine blocks to get to the place.

Q Where was the test given, do you remember?

A It was on 59th Street. I am not sure which hotel it was, but I think it was the Commodore or something. I am not sure. But I came up to the test room around, I think, 9:15, ten minutes to nine, and I was refused when I came to the door, they wouldn't let me in. They said why, you're late, you're supposed to be here at 8:30, you can't take the test.

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Q	Did	you	actually	go	into	the	test	room
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Well, it was a big room. I just happened to step into the door. I walked up to the front of the door and I don't know, as far as I can see, they was giving the papers out for the test, the exam out for he test. So I was refused. I just turned around and came back.

- Had the actual testing begun? Q
- No, it hadn't been started.
- Prior to the time that you became a member of Local 28, did you know any members or former members of Local 28?

Yes. In Rotodyne there was, the foreman was --I am not sure if he was a member or he was on a permit, but he had worked in Local 28 and he had mentioned -we had mentioned to him about Local 28, and he was saying, well, you know, Local 28 is a hard union to get into, and it mostly consists of relatives or uncles or cousins and nephews.

MR. BOGEN: I move to strike out that testimony.

THE COURT: It may be struck.

MR. CORSI: Your Honor, he is just relating what he was told. It is a reflection of what his perceptions were at the time, your Honor.

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3 jksr	. Woods - direct 1645
	THE COURT: It is hearsay.
	MR. CORSI: It is not offered necessarily for
the trut	h of the statement. It is what
	THE COURT: I am not going to listen.
	MR. ADAMS: Your Honor
	THE COURT: No, please. Let's not overdo this.
	MR. ADAMS: I would like to make a record on
that.	
	THE COURT: I am not going to let you make a
record.	The objection has been sustained.
. Q	Prior to the time that you had made application
for the 1	1968 test, did you know about Local 28? Had you
ever hear	rd of it before?
A	I had heard of it because well, my teacher,
my appren	nticeship teacher was a member of Local 28.
Q	Prior to the time that you had applied for that
test, had	you ever made any other applications in 28?
. A	No, not before '68, no.
. Q	Why did you not make application prior to that ti
	MR. BOGEN: Objection, your Honor.
	THE COURT: I will let him answer that.
A	Well, because as I was saying before, I was told
they were	en't accepting blacks into Local 28 so I never

bothered.

- A Carver High School in Gastron, Alabama.
- Q Did you attend any further schools in New York or Alabama of any kind?

A I went two years to sheetmetal school on my own, when I was in Arlington Blower, the first company, when I first started sheetmetal. I went to Manhattan trade School on 86th Street, I think it is, Second Avenue, for two years.

- Q Was it two years?
- A Yes.

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- Q How often did you go there?
- A I went there twice a week, Tuesday and Thursday, two hours a night from seven to nine.
 - Q What courses did you study?
 - A Sheetmetal.
 - Q Could you describe the courses?
- A Sure, sheetmetal, doing round work and rectangular work, same as I am doing now.
- Q Was there mathematics taught at the school, arithmetic of some kind?
 - A Involved?
 - Q Yes.
 - A Yes.

1	6 jksr	Woods - cross 1648			
2	Q	Was that taught at the school?			
3	A	That was taught with the trade, right.			
4	. · · Q	How many teachers taught you at the school?			
5	A	Only one.			
6	Q	And in addition to arithmetic, did you learn			
7		MR. BOGEN: Withdrawn.			
8	Q	Did you learn simple arithmetic			
9		MR. BOGEN: Withdrawn.			
10	Q	Did you learn about decimals?			
11	A	Right, right.			
12	· ·	Did you learn about fractions?			
13	A	Fractions, right.			
14	Q	Had you learned decimals and fractions in the			
15	eleven yea	ars in school?			
16	A	School, yes.			
17	Q	This was additional decimals and fractions you			
18	were learning about?				
19	A	Right.			
20	Q	Different kinds of declaral and fractions?			
21	A	Not different kinds, the regular fractions we			
22	use every	day.			
23	Q	In the sheetmetal trade?			
24	A	Right.			
25	Q.	Did you learn about geometry, the shapes of			

.	
1	7 jksr Woods - cross 1649
2	subjects?
3	A Well, geometry is not really a course in sheet-
4	metal; the majority of the sheetmetal worker, geometry is
5	not.
6	Q In school, what other arithmetic did you learn
7	or were you taught?
8	A I was taught geometry in school, tenth grade I
9	was taught geometry.
10	Q In the night schools you were attending, I am only
11	talking about the night school up in New York now, you said
12	you went two years; you were taught some arithmetic. Will
13	you tell us what arithmetic you were taught there?
14	MS. GROSS: He has already answered that question,
15	your Honor.
16	MR. BOGEN: On the contrary, we were bogged down
17	on what it was. I was simply trying to develop what it
18	was.
19	THE COURT: No, Mr. Bogen. I sustain the objec-
20	tion.
21	Q What other courses besides arithmetic were you
22	taught?
23	A What other courses besides arithmetic?
24	Q Yes.
25	THE COURT: I don't think he ever said he was

SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE FOLEY SQUARE, NEW YORK, N.Y. CO 7-4580

5.2pm

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A In the school. Aviation shears, bulldog, trimmer points, dividers -- mostly dividers, making small things, square, combination square, steel ruler, steel taper, you want to call it.

- Q Is there anything else in tools?
- A No. Unit shear. They had that, too, also.
- Q Aviation, was that left and right aviation?
- A Right; left and right aviation.
- Q Were all the tools that you were using at Arlington Blower being used at the school, also?
 - A Yes.
 - Q What machinery, if any, did you use at the school?
- A They had small, mostly small -- most of the machinery that the company had, only it was small. It wasn't as large. Like the hand brake or something were two foot. They were all small machinery. It was the same machinery, but made on a smaller basis for the school.
 - Q What other machines besides the smaller hand brake?
- A They had the hand brake, they had a spot welder, they had a lock former, something like a Pittsburgh, small Pittsburgh machine. I can't think of the rest of it.

 That's about all I can think of.
- Ω Were there other machines that you can't think cf now?

1	17 jksr	Woods - cross	1659		
2	A	Located in Brooklyn on Fulton Street.	I don't		
3	know exactly the address.				
4	Q	How long was that program?			
5	A	About three weeks, if I recall, two to	three		
6	weeks.				
7	Q	Pardon?			
8	A	I would say I took a tutoring course a	bout		
9	three wee	ks.			
10	Q	Who handled it or who taught that cour	se?		
. 11	A	I don't recall.			
12	Q	What courses of subjects were you tuto	red in?		
13	A	Mostly mathematics, geometry, differen	t types of		
14	mathemati				
15	Q	Anything else?			
16	A	No, that's all.			
. 17	Q	Okay. During the tutoring course did	you discus		
18	or were y	ou instructed with respect to sheetmeta			
19	and work?				
20	A	No, only mathematics was I being tutor	ed on.		
21	Q	Did you at that time discuss			
22		MR. BOGEN: Withdrawn.			
23	Q	The people who were taking the course	with you.		
24		other 400 Blowpipe people?			
25	A A	Yes, they were all 400, Local 400.			
		res, they were arr 400, hocar 400.	651		

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A Right.

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MS. GROSS: This witness testified that Mel Farrell said that this was the production section.

> THE COURT: Yes.

MR. BOGEN: If he --

THE COURT: That is the testimony.

MR. BOGEN: The witness stated --

THE COURT: I have total recall, Mr. Bogen.

MR. BOGEN: I won't question it, your Honor.

THE COURT: As yesterday indicated, Mr. Farrell said they couldn't transfer because it was a production local.

MR. BOGEN: That is one portion of the testimony. THE COURT: And there was no testimony with respect to production local on the payment of the initiation fees.

> MR. BOGEN: With respect to the witness. Withdrawn.

Do you recall, when Mr. Corsi asked you a little while ago what section or division you were in in 400, do you recall saying that it was a production local?

Yes .- Well, which I did, but which I had been told like he said, by Mel Farrell, that was two different -- the trades consist of two different work, which was

1	22 jksr Woods - cross 1664
2	a production local, which was round work, blowpipe, and
3	construction local, which was new construction.
4	Q The time you say that Mr. Farrell told you that,
5	that was a little bit before the 1969 test?
6	A Right.
7	Q When you first entered Local 400, back in '69
8	excuse me back in '66, were you informed withdrawn
9	you paid an initiation fee, is that correct?
10	A Right.
11	Q Do you recall at that time receiving information
. 12	that you were paying an initiation fee on a production
13	local level, do you recall that?
14	A No, no.
15	Q From the time you became a member of Local 28,
16	you told us that the first job you had was Atlas Sheetmetal
. 17	A Right.
18	Q As I understand it, you left Atlast voluntarily,
19	is that correct?
20	A Right.
21	Q Did you lose any time before you received a
22	job at Romar?
23	A One of the members knew the guys at Romar, and
24	he had found that the mechanic they had had left them and
25	they were looking for a cutter, so he asked me would I like

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THE COURT: All right.

With respect to the other people -- let us clear that up -- were people receiving overtimepay as a premium pay and not working for it or given an hour overtime? People in the category that you know of?

No.

1	arjw 10 Woods-cross
2	Q How were they doing it?
3	A They give you like 50 cents an hour over the
4	pay scale but you still, I guess, are working for it.
5	Q When you were working at Atlas and getting
6	first a half hour, were you actually working that half
7	hour?
8	A Yes, I was working.
9	Q With respect to Romar, you were also working
10	an hour?
11	A Yes.
12	Q Was that kind of a bonus for you or some sort
13	of premium?
14	A No, it was just that the trade was busy.
15	Q In Viking, what work were you doing?
16	A When I first went there I was on the bench
17	knocking fittings together.
18	Then after that, the foreman, he was a cutter.
19	He wasn't a foreman, but he was a cutter and he left and
20	he put me in the position, made me a cutter.
21	So I was cutting for approximately six months
22	but he came back and wanted them to give him his position
23	back and put me back on the bench but the company would not
24	do it. So they made his assistant foreman.
25	I stayed cutting for a while and after the

1	arjw 12	Woods-cross 1677
2	worked in	side?
3	. A	Yes.
4	- Q	Were they interchangable back and forth?
5	A	Back and forth, right.
6		
7	Q	During this period of time?
8	A	Yes
9	Q	This wasn't any special work, they were just
	doing gen	eral work?
10	A	Assembling mostly.
11	. Q	And those men working outside?
12	A	Installing.
13	Q	No special work?
14	A	No.
15	Q	You said you didn't go outside at all during
16	this peri	od of time?
17	A	No.
18	Q	Ween you visited Mr. Farrell in 1969, were you
19		at that time?
20		
21	A	1969?
22	Q	Yes.
-	THE RESERVE THE RESERVE THE PROPERTY OF THE PARTY OF THE	

I believe at that time you said you were an

I was an apprentice, but I was being graduated

Yes.

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apprentice.

1	arjw 13	Woods-cross	1678
2	because that	was the last term.	
3	. Q	Had you graduated?	
4	* A	I graduated in October.	
5	Q	Had you taken the test	
6	A	I took the test in November.	
7	Q	You had taken the Local 28 journ	eymen test
8	before or af	ter graduation?	
9	A	After graduation.	
10	Q	You said before, sometime before	you visited
11 ·	Mr. Farrell'	s office, is that correct?	
12	A	Right.	
13	Q.	You were still an apprentice, is	that correct?
14	. А	Yes.	
15	Q	Working full-time as I understan	d at Rotodyne?
16	A	Right.	
17	Q	Did you visit him with Mr. Mitch	el1?
18	A	Right.	
19	Q	Who else was present at that tim	e?
20	A	Mr. Johnson, Raymond Brown, Lero	y Floyd and
21	Reggie Jones	•	
22	Q	Prior to visiting Mr. Farrell, h	ad you heard
23	about I t	think you told us you filed an app	olication for
24	the test in	1969.	
25	A.	Right.	

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Q Had you heard about the test?

A Well, Roosevelt Johnson, his wife had heard Saturday just that week, before the deadline, to put in an application for the test that Local 28 was having a test and she told him about it and from there he came into the shop and told us what his wife told him and we decided we would go down and find out for ourselves.

Q Do you know where or how his wife heard about the test?

A On the television she heard it. Some organization had brought it out on the television.

Q Had you seen or heard it in television?

A No.

Q After you spoke to Mr. Farrell, you told us he said you couldn't come in unless you passed the test.

A Right.

Q Do you recall it?

A Right.

Q At that time did you tell him you already filed an application for the test?

A Yes, we told him.

Q When did you tell him?

A The same day we came down we told him that we were from Local 400 and we had put in an application to

Before he told you that, had you told him that you filed an application?

> A Right.

You told him that?

Right.

Mr. Woods, had you ever taken a journeymen test for the City of New York?

Sheetmetal?

MS. GROSS: Same objection.

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1	arjw 17	Woods-cros	s 1682
2	workers?		
3	. A	No.	
4	*	THE COURT: If he hadn	't heard of it obviously
5	he doesn't l	now it.	
.6	Q	You mentioned that duri	ng the apprentice
7	program of	00 you were being taught	by a Local 28 member?
8	A	Yes.	
9	Q .	Who was that?	
10	A	I can't recall his firs	t name, but his last
11	name was Bea	uchamp.	
12	Q	What time was that?	
13	A	The year?	
14	Q	What year, if you remem	ber?
15	A	Around 1967.	
16	Q	How long did Mr. Beauch	namp teach the 400
17	apprentice	course, if you know?	
18	A	He had taught one year	that I know of that
19	I was there	. And then he stopped.	Then another Local 28
20	man came in	as a teacher. He worked	at Viking with me,
21	but I can't	recall his name.	
22		MR. BOGEN: I have no	further questions of
23	the witness	•	
24			

B3

1	arjw 20	Woods-redirect	1685
2	Q	Was that a separate course from your	sheetmetal
3	. course at th	e trade school?	
4	A	No.	
5	Q	Was that part of the shop course?	
6	A	Right.	
7	Q	Would you characterize that as shop m	ath?
8	A	Yes.	
9	Q	When you were tutored for the Local 2	8 journey-
10	men test in	1969, what was the mathematics that yo	ou were
11	taught in th	at program, that tutoring program?	
12	A	We were taught geometry, taught how t	o break
13	down fractio	ens, and regular fundamental multiplying	ıg,
14	dividing, su	btracting.	
- 15	Q	Is geometry shop math?	
16	A	No.	
17	Q	Did the 1969 test that you took conta	ain
18	mathematics	questions?	
19	A	A few, yes.	
20	Q	Were these generally related to the	shop
21	math or geom	etry or how could you characterize it?	?
22	A	Most of them were shop math, normally	
23	mathetmatics		
24	Q	What kind of math do you use as a Loc	cal 28
25	journeyman?		

1	arjw 21	Woods-redirect/recross 1686
2	A	We used inches, 1/8 of an inch.
3	. Q	Would you characterize that as shop math?
. 4	÷.	MR. BOGEN: I object.
5		THE COURT: I will sustain it.
6	Q	How would you characterize the mathematics
7	that you use	as a Local 28 journeyman?
8		MR. BOGEN: Objection.
9		THE COURT: Sustained.
10		MS. GROSS: What is the grounds?
11 ·		THE COURT: Please.
12		MS. GROSS: No further questions.
. 13	RECRUSS EXAM	INATION
14	BY MR. TUMIN	ARO:
- 15	Q	You testified that you went to trade school
. 16	at night.	
. 17	A	Yes.
18	Q	In addition to your eleven years I believe
19	of high scho	ol.
20	. A	Right.
21	Q	Did you ever receive a high school equivalency
22	certificate?	
23	A	No, I did not.
24		MR. TUMINARO: That is all.
25		MR. BOGEN: I have none, your HOnor.
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arjw 23 1 have completed their case in some regard and it will put great stress and burden on us with out witnesses in bring-3 ing them in. We want to cooperate in every way possible. 5 THE COURT: I may say if you want this case 6 tried that is the way it is going to have to be tried. 7 I have other commitments that have preference. 8 MR. BOGEN: I have no objection with respect 9 to the trial of the action. 10 THE COURT: I will give you 24 hours notice, 11 Mr. Bogen. 12 MR. BOGEN: Will we have the right of rejection or first refusal? 13 14 THE COURT: No first refusal either. I want that Defendant's Exhibit E, the ... 15 16 examination, so that I can have the clerk seal it in an 17 envelope. 18 19 20 21 22 23

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MR. BOGEN: I ask that the prior answer to the

were being paid but they were standing around.

	and the south and the south of
4	THE COURT: I am not going to strike it.
5	Q Mr. Haughton, do you have any knowledge of the
6	sheetmetal trade prior to 1964?
7	A Yes, I did.
8	Q What was the basis of that knowledge?
9	A Then I was working in the Negro American Labor
10	Council and there were some studies that Herb Hill had
11	done on the apprenticeship training program.
12	Q Who is Herb Hill?
13	A The National Labor Secretary of the NAACP, the
14	National Association for the Advancement of Colored People.
15	Q What were these studies?
16	A Dealing with the numbers of minority apprentices
17	in the various apprenticeship training programs and I could
18	recollect that not the exact figure but some very
19	small .5 or something like that percent of minority workers
20	involved in the apprenticeship training program.
21	That was not only typical of Local 28 but other
22	unions as well.
23	Q Mr. Haughton, based on your experience when
24	minority workers come to you, what makes them, if you know,
25	choose a particular trade if they don't already possess a
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Haughton - direct

question then be stricken on the basis of hearsay. Miss

Gordon is certainly available to testify.

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12 arsr

3	Q Where is that?
4	A That job they had headquarters in Brooklyn, one
5	in Hoboken and one in Staten Island.
6	Q How long did you work at Todd's and Bethlehem?
7	A It is about nine years because it is a shape-up
8.	job. You work in one place a month and they lay you off
9	. and you go to the other place to work six weeks and they
10	lay you off again.
11	Sometimes when there is no work you still had
12	to go in and get your card signed up on the machine to
13	keep your seniority.
14	Q When you worked for Bethlehem Steel were you
15	affiliated with a union there, also?
16	A Yes, sir. That union covered the whole seaboard
17	for Local 401.
18	Q At that time that you were at Todd's and Bethlehen
19	can you describe for us what percentage of the sheetmetal
20	workers that you worked with were black and Spanish?
21	A At that time I would say 65 35 black.
22	Ω 65
23	A 65 white and 35% black and non-white, because you
24	had Spanish in there, I will put it that way.
25	Q During the time that you were working at Todd and
	· cco

Wilson - direct

Bethlehem Steel Shipbuilding Corporation.

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1	3 arsr Wilson - direct 1767
2	Bethlehem, did you know of any other sheetmetal union in
3	. New York City?
4	A Yes, sir.
5	Q What union was that?
6	A We heard about Local 28. It was the talk in
7	the shipyards.
8	Q Did you ever attempt to join Local 28?
9	A I did.
10	Q When was that, sir?
11	A Between in the 1950's when I was plying between
12	Todd and Bethlehem Steel, at that time there was a co-worker
13	and we would talk about Local 28, if you get in there,
14	they have year round jobs you den't get laid off.
15	We were talking and he said he could get an
16	application. He had a friend who worked there and could
17	get a couple of applications for us. It was two of us
18	talking about it, trying to get in.
19	MR. BOGEN: I ask that that be stricken and
20	certainly as not binding on Local 28 as hearsay.
21	THE WITNESS: It is not hearsay, sir.
22	THE COURT: Hold it.
23	THE WITNESS: Thank you.
4	THE COURT: I am going to overrule the objection
25	and it will not be stricken.
	670

1	4 arsr Wilson - direct 1768
2	Q Did you ever receive an application for Local 28?
3	A Yes, sir.
4	Q What did you do?
5	A I fill it out, my friend and myself, and we mailed
6	it in.
7	Q When you say your friend, do you remember who it
8	was?
9	A Yes, a friend of mine deceased now, Frank Bird.
10	Q What race was Mr. Bird?
11	A Black, as I am.
12	Q You indicated that you filled out this application
13	What did you do next?
14	A We mailed the application and we waited for at
15	least three months and we didn't hear from them.
16	At that time I was still plying between Todd
17	and Bethlehem and there comes a time when we we laid
18	off from Todd so we decided to go down to Local 28 office.
19	Q Where was that, sir, do you remember?
20	A I think it was on Broadway. I don't remember the
21	address but I could remember it was on Broadway.
22	Q What happened when you went down?
23	A When we walked in we met the desk clerk. He
24	said, "May I help you, gentlemen"?
25	We said, "Yes. We have mailed applications here
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2.2am

5 arsr

Wilson - direct

for the past three months, we haven't heard anything of it."

He asked our names, we gave it to him and he got up and got around in the inside of the office and brought out the two application forms.

- Q Was there somebody else with you?
- A Yes, Bird and myself, my friend went, both of us.
- Q What happened when the man came back out?
- A He came back with the applications and we said,
 "How can we get in the union, become a member?"

He said, "Well, the company is not taking on no men now because the bosses are sending men from Connecticut over here to work."

So I said, "That is all"? He said, "Yes."

"How can we get in"? We said. "We would like to become a member."

He says, "They closed the books, they are not taking on nobody."

- Q Why did you want to join Local 28?
- A Well, because they have all year round work, continuous working. We were working in the shipyard, it is a shape-up job, you can't make a living that way. You work two or three weeks and are laid off and so on. You become disgusted. So we wanted to get something more permanent.

9 arsr

there?

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A Approximately about a month or six weeks I think, until they had to make up their contracts.

Q. You indicated that in 1966 the Navy Yard closed. What did you do after that when the yard closed?

A When it was closing, the day they gave us a choice. The navy yard said if you want to go to California you can do so, we will reimburse you and Philadelphia, and Baltimore, Maryland.

Q Were you given a choice to join any union?

A ... No, never get any choice because that Local 401 covers the whole waterfront here and shipyards.

Q What did you do when the navy yard closed?

A As I told you, I went to the Philadelphia Navy
Yard.

Q How long were you down at the Philadelphia Navy Yard?

A I went there from 1966 to 1969. They put me out there on a disability, my eyesight gave me trouble.

Q When you worked in Philadelphia from 1966 to 1969, did you move down there?

A No. I commute by bus, the company make up a bus and it leaves from the Brooklyn Navy Yard four o'clock in the morning to the Philadelphia Navy Yard and you can

punch in to start work at seven.

Q Subsequent to 1969 did you again attempt to do sheetmetal work?

A Yes, sir. I was up in Harlem where they are putting up the State building and I saw a lot of ducts lying down and I walked in and I asked who was their foreman on the job.

There was a colored apprentice working. He said,
"He went for coffee. If you wait long enough you will
meet him."

So I waited and he walked in. So I asked him if I can get a job. He asked me if I had a book and I said, "No, I have no book. If I had a book I would get a job. If you don't give me a book, how can I really get in this union? How can I get in the union?"

He said he don't know and walked away. So I consulted with the apprentice. He said, "You will get in. You will get in as an apprentice and anyway I will give you the phone number of the company and you can call."

Q Who did you call --

MR. BOGEN: Excuse me. I ask that the testimony be stricken. Certainly it is not binding on Local 28.

MR. CORSI: An attempt to explain when he went to the office set up as he described in Harlem looking for

2.3am

Q What function, if any, does the officer of Contract Compliance have with relation to the Federal Government?

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A With relationship to the Federal Government we have to make certain that City agencies follow Federal

guidelines and regulations relative to contract compliance in order to qualify for Federal funding.

Q What are the duties of the Office of Contract Compliance?

A Our major function is to secure an affirmative action commitment from contractors who are bidding on City or City assisted work, commitments to employ minority manpower in their work force.

We also have to make sure that the City agencies, mayoral and non-mayoral follow the Federal regulations where Federal funding is involved.

We also have an additional responsibility and that is to coordinate the recruitment referral of minority individuals through the 26 neighborhood Manpower Centers that the City operates.

I also act as contract officer with the minority organizations in recruitment and training programs who operate five Federal offices in the ghetto areas exclusively for referral to building trades industries.

Q When you spoke a moment ago about enforcing policies with respect to City agencies, are you talking about City agencies which do construction themselves or talking about city employees or City contracting agencies?

A Our efforts and responsibilities are directed

4 arsr

toward the employers of workers who are doing new construction work.

Q In reference to your recruitment program, do
you recruit for the City or State Human Rights Commission?

A No. The State or City Human Rights Commissions are not employment or referral manpower agencies. No, we do not.

Q With what trades is your program involved?

A All of the skilled crafts who make up the construction industry in New York City are involved in our affirmative action requirements.

Q Are subject to?

A Subject to the affirmative action requirements of the City, yes.

Q What category of workers do your responsibilities run into?

A We deal with minority journeymen, apprentices and minority trainees, wherever we have established programs for those categories.

Q Do you have any established program for those categories in trades related to sheetmetal work?

A No, we have no program for minority training workers in connection with the sheetmetal industry.

We don't have any program worked out for referral

to your testimony, what was the City's Affirmative Action Program in 1968?

A In 1968 the City's Affirmative Action Program was basically embodied in the mayoral Executive Order 71 promulgated on April 2, 1968. In essence it required that contractors would no longer be approved by merely asserting they did not discriminate.

They had to submit to our Contract Compliance

Office some specific commitment on numbers of individuals

that they were committed to employ on those jobs.

Q What was the duty of your office, to obtain those commitments?

A In relation to that our office obtained the commitment and followed up by site inspections and where we had programs, we did the recruitment of individuals as a referral operation.

- Q Did you ever have a program with Local 28?
- No, we were never able to work out a program of that type with Local 28.

MR. BOGEN: I ask that the answer be stricken.

The question was did you ever have a program, which

requires a yes or no answer, your HOnor.

THE COURT: I am going to let the answer stand.

Q In 1968, were there any other crafts with which

In 1869 ways above any other or

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you did not have a program?

A 1968 I can only think of Local 28 as the exception.

Q To your knowledge, were there sheetmetal contractors employed on City contracts in 1968?

A Oh, yes. Sheetmetal is an important component in any new City construction but for a long period of time, in 1968, the City withheld the awarding of sheetmetal contracts.

Q Why was that, Mr. McNamara?

A Because the contractors who were doing business with the City, bidding on work, indicated to the City there wasn't a single black journeyman in the ranks of Local 28 at that time and, therefore, we couldn't secure commitments for minority utilization.

Q Did the City meet with contractors in relation to this problem?

A Oh, yes, there were meetings with contractors, certainly.

Q Were there meetings with the union during this time?

A There was contact and meetings with the union.

Q Can you give us any idea of how long these meetings might have occurred, over what period of time?

MR. BOGEN: I am not sure what meetings we are talking about. Does this go to the contractors or ones with the union?

Q Talking about the period of 1968 in which Mr.

McNamara indicated they couldn't get agreement from

contractors. I am directing your attention to that period

of time.

Can you give an estimate of approximately how many meetings with the contractors?

A Well, I know there were meetings from July 1968 with contractors running through December of 1968.

Q With the union, Mr. McNamara, if you know?

A There was at least one meeting with the union and their law firm. I know there were phone calls, et cetera, but you are talking about meetings. I can think of one offhand.

Q Were there other contacts besides meetings with the union had during that period of time?

A I know there was a phone call with the Local 28 office. I can't recall any great number of meetings with Local 28.

Q What position, if any, did the contractors express to the City during these meetings?

MR. BOGEN: Objection, your Honor. One, it is

not binding on us, and two, I think the testimony as to what their position was is already in.

MS. GROSS: There is no position that any testimony here is binding on the union, besides which I am asking this witness about meetings that he knows of. I don't think there is anything wrong with that.

MR. BOGEN: I don't think that is the point of my objection.

THE COURT: I think he already answered the question. It was asked and answered and I will sustain it.

Q What position, if any, did the Union express to the City during this period of time?

A I know there was some discussion about transferring men from a sister local. In other words, the City was exploring that but that was rejected by the union at that time.

I also recall that the matter was referred to the Joint Adjustment Board for the sheetmetal industry later in the year and I recall Theodore Kheel was the arbitrator for this matter.

Q Was there any action of the City, did the City take any action other than these meetings and phone calls during 1968 in relation to sheetmetal work?

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Yes. I recall one other episode. A major sheetmetal contractor who wanted the City to turn over to him or to his firm land writedowns, Universal Sheetmetal, and the City Economic Development Agency rejected that request from the company at that time because of the difficulties we were having with the sheetmetal industry and the union.

MR. BOGEN: I ask that the answer be stricken. One, that it is outside the scope of this man's personal knowledge and I don't know, the word difficulties we are having at this time, that is your Honor's job to determine whether or not there were difficulties under the circumstances.

MS. GROSS: The knowledge of the witness has been testified to, on the basis of his own knowledge, both personal and of him being familiar with all of the files of his office since that time.

THE COURT: I will overrule the objection as long as we do go into the difficulties.

Mr. McNamara, did you already testify whether or not contracts had been suspended by the City?

Yes. Soon after the April Order was effectived . wel into December, there were approximately twenty sheetmetal contracts that were being held up over this

problem of minority employment.

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MR. BOGEN: At this time I ask that the answer be stricken. The question was whether there were contractors suspended and the answer was twenty contracts were held up.

THE COURT: That is semantics again. Overruled.

Q Mr. McNamara, what were the difficulties that you referred to that were occurring at that time?

A The difficulties had to do with the contractors' claims that they were unable to obtain minority journeymen from the referral source they relied on, Local 28. They stated there wasn't a single black journeyman in Local 28 in the year 1968.

Q This suspension or holding up of contractors bore on that problem?

A Yes, it related directly to the inability of contractors to hire minority journeymen.

Q To your knowledge, you received information from the contractors, was it, that the matter was being referred to the Joint Adjustment Board?

A Yes. The Contractors Association informed the City they were going to refer it to Theodore Kheel for arbitration.

Q Do you know what the result of that arbitration 684

THE COURT: I'm going to let it stand. He can characterize it, if he wants to.

Q Would you continue, Mr. McNamara?

A Yes.

Also the City then became enbarked, in the latter part of 1968, on some negotiations with the Building Trades Council to set up a pilot training program in a part of the City known as the Brooklyn Model Cities area, and we were hopeful that perhaps the Building Trades Council, to which Local 28 was affiliated, would be able to persuade them and involve them in a new effort.

Q Would you tell us just briefly what Model Cities is?

A Yes. There is federal legislation that set up Model Cities areas. In New York City, we had Brooklyn Model Cities, consisting of Bedford Stuyvesant, Brownville, East New York. And as a condition for receiving the federal funding the City contracting agencies had to assure the federal government that we would make efforts to employ community people either in the rebuilding of the ghetto area or in training programs in that area. That was a necessary requirement to conform with the federal regulations.

Q And what, if any, was your role in this Model

Cities Program?

A I was assigned by the City to undertake the negotiations with the Building Trades Council and a committee they established.

And did you undertake those negotiations?

A Yes. We had a series of meetings commencing in the latter part of 1968 to early 1969.

Q With hom did you meet?

A I met with Peter J. Brennan, who was then the president of the Building Trades Council, as well as a craft committee that was established by the Council to work with us.

Q And how did you go about setting up the program?

A Well, eventually we came to an agreement that would provide for the employment of minority trainees from the Brooklyn Model Cities area in a new category that never existed in the building trades before.

In other words, up until this time a man was either a journeyman or he was an apprentice. What we got agreement on was that a new classification, known as trainee, would be established and recognized by the Council and their affiliates.

And what was a trainee?

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A A trainee, first of all, would be a minority individual. Second of all, he would be somebody who did not meet the ongoing requirements for the regular apprentice program.

In other words, he could be past apprenticeship age. He could be an individual who did not have a
lightathool diploma but had the manual dexterity to perform
the work. He could be somebody who would otherwise be
sharred from an apprenticeship program, perhaps a police
coord may have existed. He could be an individual who had
prior trade experience and would be brought into the program
with advanced standing.

Q And how would these trainees be employed?

A They were to be employed on all City and City assisted construction work in the Model Cities area in a ratio of one minority trainee to every four journeymen on a craft by craft basis, wherever practical.

Q Was this journeyman in the craft or journeyman working?

A No. This is based on the actual work force out there. The number of journeymen employed had to be at least four in that particular trade before we could refer the first minority trainee.

Q Did Local 28 participate in the Model Cities

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2	Program in Brooklyn in 1968 and '9?
3	A No, they did not or would not serve on the
4	committee appointed by President Brennan and we were
5	never able to get them to accept a trainee.
6	Q Were there any sheetmetal contractors working
7	on Model Cities work during that time, Mr. McNamara?
8	A Oh, yes. There were Housing Authority
9	projects. Yes.
10	Q That brings us now to '69, and how long did
11	the Model Cities Program last in Brooklyn?
12	A Well, we actually got it off the ground in
13	mid-1969 and it continued on until the City worked out a
14	city-wide program for training for trainees.
15	Q And when was that?
16	A Well, the negotiations for the city-wide
17	program largely took place in 1970
18	Q Wait, I'm sorry. Let me stop right there
19	in 1970.
20	You said you began in 1970 to negotiate for
21	the city-wide
22	A In the winter of '69-'70, and it culminated
23	in an agreement signed December 10, 1970.
24	Q Did the City take any action in relation to

training between 1969 and December of 1970?

. A	Yes.	We require	ed, in our	r constru	action co	n-
tracts in	the Model	Cities an	eas, that	t trainee	es must b	е
employed i	n a ratio	of one to	four, wh	herever t	here wer	е
four journ	eymen wor	king.				

Q Was this program, this requirement limited to the Model Cities areas in 1970, Mr. McNamara?

A In 1970 we were still dealing primarily with the Model Cities areas, except, in the middle of 1970, we promulgated a new Executive Order on training.

That Executive Order is Executive Order 20, and essentially it embodied the concept of the pilot project in Brooklyn Model Cities.

So that when you talk about activity, we were then writing in Executive Order 20 starting in July 1970 in all City contracts across the board in all five boroughs.

The actual hiring of those trainees came a little bit later.

Q And what was the experience of the City regarding sheetmetal contractors subject to Executive Order 20?

A The same as before. We never could get them to comply.

Q And you indicated that you were beginning negotiations about this very same question of training.

With whom were these negotiations conducted?

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Well, again, we were meeting with the Building Trades Council President Peter Brannan. We also were meeting with the Board of the Urban Affairs of the Building Trades industry.

Local 28 was represented through the Board of Urban Affairs.

To your knowledge, was Local 28 a member of the Building Trades Council at that time?

Oh, yes. They are on their executive committee. Sure.

Did you deal directly with Local 28 on those negotiations?

No. We dealt directly with the Council that they were affiliated with and we dealt directly with the Board of Urban Affairs, to which Local 28 contractors, I believe, were funding, were contributing funds based on their collective bargaining agreement. I'm not quite sure when those contributions commenced, but we were dealing with the Board of Urban Affairs.

What was the result of these negotiations in 1970?

The negotiations culminated in an agreement signed by Governor Nelson Rockefeller, Mayor John B. Lindsay Peter J. Brennan and a representative of the Board of Urban

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Affairs.

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That was the December 10, 1970 agreement that I referred to earlier.

Q Did this agreement have any technical name?

A Well, it became known later on as the New York Plan.

Q And are you familiar with the term Home Town Plan, Mr. McNamara?

A Home Town Plan is a term that the United

States Department of Labor and its office of Federal Contract

Compliance applies to voluntary agreements worked out in

different cities in the United States to increase minority

utilization in construction.

Q Do you know whether the New York Plan was considered a Home Town Plan?

A Yes. It was ultimately approved by the Office of Federal Contract Compliance.

Q And was it necessary for crafts to participate in a Home Town Plan?

MR. BOGEN: Objection, your Honor.

THE COURT: I'll sustain the objection.

MS. GROSS: Could Iknow the ground of the objection so I can rephrase the question?

THE COURT: In the first place, it is leading.

Q You testified earlier you were familiar with the requirements of the federal government regarding contract compliance.

A Yes. We had to enforce them on City work.

Q Would you tell us what those requirements are as regards the Home Town Plan?

A Yes. If there is an approved Home Town Plan in a locality, contractors must agree to participate in that plan wherever there are federal funds involved.

If there is no Home Town Plan governing that particular trade or craft, the Enderal government imposes mandatory hiring Lequirements, they call them Part II of federal bid specifications.

Q Did Local 28 ever parcicipate in the New York
Plan?

A Local 28 never participated in the New York

Plan directly. As I indicated, they were part of the

Board of Urban Affairs and in a sense they were funding it

through their collective bargaining agreement, but they

never hired a single minority trainee.

Q Did all other crafts participate in the New York Plan?

A The only other trade was the Laborer's Trade, which was considered a semi-skilled trade, with a large amount of minorities. So with the exception of the Laborers, Local 28 was the only union that has never signed up in any New York Plan type program.

Q Were there any other locals who did not sign the December 10th agreement which participated in the New York Plan?

A Yes. After the signing of the December 1970 agreement, there were several other mechanical crafts who initially indicated that they were not prepared to participate in that program.

Q What efforts, if any, did the City make to obtain the participation of those crafts, and would you name which crafts they were, please?

A Yes. We had four mechanical crafts initially:

Loal 28, Steamfitters Local 638, Local 3 of the International

Brotherhood of Electrical Workers, and the Plumbers,

which consisted of Locals 1, 2 and a Staten Island Local

371, I believe.

Q And what efforts, if any, did the City make to obtain the participation of these locals?

A Well, the City went back to the Board of Urban
Affairs and to the Building Trades Council and its president,

Mr. Brennan, and we were hoping that they could straighten

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Out their own house.

Ultimately we entered into some direct discussions with the crafts that were holding out on this new

program.

Q What was the result of the discussions?

A Steamfitters Local 638 indicated quite early in 1971 that although they had not signed off on the New York Plan negotiated through the Council, nevertheless their Executive Board was now willing to accept minority trainees, and we proceeded to have them part of the New York Plan.

The Electricians Union met -- I had meetings with the Local 3 people and ultimately we worked out an acceptable training program for minority trainees that became part of an overall New York Plan even though it was a separate agreement.

Similarly, I met on behalf of the City with Plumbers Locals 1 and 2, and again we worked out an acceptable on-the-job training program with the plumbers craft that was signed off and approved by the federal government and became part of the overall New York Plan.

Local 28, I met with their president, the
late Mel Farrell, at City Hall. I believe Mr. Bogen was
present at that meeting and they indicated their unwillingness

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to participate in this program.

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In addition to that, the men were to be given advanced standing or credit if they had prior trade experience.

So, if you had a four-year program, for example, in apprenticeship, if we had a man with two years prior background, he would be slotted in as a third year man or whatever the appropriate rating would be.

Q Were these programs identical in each of the crafts that you worked out separate agreements with?

A We were flexible on them. Some of the trades,

I think the Bricklayers, for example, we didn't require

after-hours instruction. Other trades set up classroom and
shop and related instruction. There were variances on it,
but the heart of the program was to get trainees recognized
by the unions.

Q Now, do you recall how many meetings you had with Mr. Farrell or other members of the Local 28 leader-ship?

A I only recall meeting once at City Hall in the Deputy Mayor's office with Mr. Farrell and, I believe, Mr. Bogen.

THE COURT: Ms. Gross, at this point I am going to take a five-minute recess.

(Recess)

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BY MR. GROSS:

Mr. McNamara, we were speaking about efforts Q to obtain the participation of Local 28 during the freeze and in the negotiations with the Board of Urban Afrairs and you indicated you had had at least one meeting at which Mr. Farrell was present at City Hall.

Did you meet with the Contractors --

MR. BOGEN: The testimony was not "at least one meeting." It was "only one meeting," your Honor.

THE COURT: All right. We will accept the correction.

MS. GROSS: I'll accept the correction, indeed.

Did you have any meetings with the Sheetmetal Contractors at this time too, Mr. McNamara?

Yes. Through the Sheetmetal Contractors Association we had several conferences with that group.

And did the Contractors express a position to you during this time?

Yes, they did. They informed us that --MR. BOGEN: Objection. The question was. did they express a position. I have no objection to that, but I certainly would object to anything beyond that as not responsive. And if there was a question addressed to

objection?

what they said, I would object to that, your Horar.

THE COURT: The answer is yes.

Q The answer is yes.

What was the position that was expressed to you, Mr. McNamara?

MR. BOGEN: Objection, your Honor.

MS. GROSS: May I have the ground for the

MR. BOGEN: Certainly, it would be hearsay.

Certainly it wouldn't be binding on 28. You have had

testimony in this record with respect to the attitude of

the contractors throughout and the relationship of Local

28, your Honor.

MS. GROSS: I am talking about a specific period of time now. The situation, as I think we indicated, had changed by that time. There was now a city-wide training agreement, et cetera.

So, I am asking if there was a posicion expressed by the contractors that might have been different from that which was expressed before there was a city-wide program and an Executive Order requiring training.

THE COURT: You have had expressions from the contractors directly, Ms. Gross. I will not permit him to answer this question on the ground that it is hearsay.

	1	jgjw 16 McNamara-direct 1827
)	2	Q Mr. McNamara, I show you a document and I
	3	ask you if you have seen it before.
و	4	A Yes. This is a copy of a letter that I
	5	received
	6	MR. BOGEN: If your Honor please, might I
	7	suggest that that be marked before it be shown to the
	8	witness.
	9	THE COURT: Is it marked?
	10	MS. GROSS: Not yet.
	11	(Plaintiff's Exhibit 114 was marked for
xxx	12	identification)
	13	MS. GROSS: Would you mark this too, please.
	14	(Plaintiff's Exhibit 115 was marked for
xxxx	15	identification)
	16	Q I show you Plaintiff's Exhibit 114 marked for
	17	identification and ask you if you have seen it before.
	18	A Yes. I received a copy of it. My name is
	19	on there.
•	20	Q And Exhibit 115?
	21	A I also received a copy of that letter, yes.
	22	Q Would you just tell us to whom the letters
	23	were addressed and by whom they were signed?
	24	A The letter is addressed to the Honorable
	25	Mayor John B. Lindsay with a CC to me. It is signed by
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2 Mr. William Rothberg, who was rerving as secretary of the 3 Sheetmetal Contractors Association.

The other letter, similarly, is from Mr.

Rothberg's association, only this one is addressed to

Chancelor of the Board of Education, Mr. Harvey Scribner,

at that time.

MS. GROSS: I offer these letters in evidence.

MR. BOGEN: Objection, your Honor.

THE COURT: What is the objection?

MR. BOGEN: The objection is that this is again a self-serving document written from the Association's executive secretary, who happened to be their counsel too, Mr. Rothberg, and what may have transpired between Mayor Lindsay and the second letter, 115, Scribner may be well and good between them but it is certainly not binding on 28.

Now we are trying to get in the back door what your Honor sustained with respect to testimony as to their position. Ms. Gross graciously gave me copies of this before. I've had an opportunity to look it over and this is the position taken by the Board.

THE COURT: I'm going to take it as being the position expressed by the employers at that time and in no

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MR. BOGEN: If it is not binding upon us and it is just the employer situation, then as I understand their pleadings and the contentions of the parties what is it doing or what is Ms. Gross offering it for at this time? There is nothing to which she is addressing herself. There is nothing before your Honor that this is directed to have any materiality or relevance.

THE COURT: I wouldn't say that. I think it is relevant. I am going to accept it.

> (Plaintiff's Exhibits 114 and 115 for identification, received in evidence)

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Q Mr. McNamara, what was the impact, if any, upon the freeze of the agreement that you negotiated with the plumbers and the electricians and so forth and these letters sent with respect to the sheetmetal contractors?

MR. BOGEN: Objection, your Honor, to the word "impact", assuming there was an impact and a leading question.

I think I have said enough to sustain the objection in my opinion, your Honor, in terms of guiding Ms. Gross as to what my objection is.

THE COURT: I will let the question stand.
You may answer, Mr. McNamara.

A As a result of working out the agreements with the electrical union and the plumbers union, the commitment from the steamfitters that they were participating in this program, plus the letter from the Sheetmetal Contractors Association through Mr. Rothberg that the employers were willing to participate in the new minority program, the City decided to lift the freeze on advertising these mechanical contracts. I believe that would have been in the latter part of 1971.

Q What was the program adopted by the Sheetmetal Contractors?

MR. BOGEN: Objection. I don't know if this

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witness knows. You already have two letters in evidence which speak for themselves.

MS. GROSS: The letter only speaks to the assurances given by the Sheetmetal Contractors that they were willing to participate. I am now asking Mr. McNamara if he knows obviously what program, if any, was adopted.

THE COURT: I think we had a discussion of what the program is. There cannot be any program excepting the one that exists, right?

MS. GROSS: Well, the point is, your Honor, that under Executive Order 20 there has to be a training program acceptable to the City of New York.

I am now asking Mr. McNamara if the training program acceptable to the City of New York was developed with the Sheetmetal Contractors.

MR. BOGEN: That is precisely why I objected. We already had the statement by the witness this was acceptable and as a matter of fact, over my objection, the question was permitted that as a matter of fact the impact -- and I am using Ms. Gross' term -- that they released it and advertised it. So in consequence the question she is asking now has been answered twice.

MS. GROSS: That is just not so, your Honor. The letter says they will participate in the program.

I am asking Mr. McNamara what the program was.

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He has already testified the programs differed from industry to industry. I am asking him what the program was developed with the sheetmetal contractors.

THE COURT: I will let him answer the question but I won't let you go into it any further.

Can you tell us what the program was that the sheetmetal contractors agreed to?

The contractors agreed to a program similar to that that all the other crafts agreed to, the New York Plan Type program. But this was never implemented.

Were there any other events that occurred at the time of September 1972 when you said the freeze ended?

Yes. With respect to the sheetmetal industry and union, the City Commission on Human Rights issued a complaint charging a pattern and practice of discrimination against Local 28 and the Mayor, in lifting the freeze, announced that the City, if necessary, would pursue this matter in the Courts with Local 28 if they continued not to have a program for minority training.

One other incident I recall. In fact the city did join in a suit in the Federal Court in 1961, it is the suit that we are here today for.

Now, that takes us up to approximately the

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for sheetmetal?

A For sheetmetal as well as the other trades we had Executive Order 71, we had Executive Order 20 which required the training of minorities and that one to four journeyman ratio; and we had the Federal requirements for the Model Cities areas that we had to implement.

Q Was the New York Plan in existence still at that time?

A The New York Plan was in existence commencing in 1971. Yes, it was in existence.

Q When did the New York Plan expire?

A The New York Plan expired in July of 1972.

Q What, if anything, did the City do in regards to the expiration of the New York Plan?

A The City did not renew the New York Plan but for the latter part of 1972 we attempted to see if we could get some improvements in that New York Plan.

Q How were these improvements attempted to be gotten?

A We conveyed to the industry, the Board of Urban Affairs and the Building Trades Council that we were not satisfied that the unions had lived up to their commitments and we wanted to work out a new agreement that would go beyond just the trainee classification. We had a

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series of discussions with them.

MS. GROSS: May this be marked, please.

[Plaintiff's Exhibit 117 marked for identification.]

Q Mr. McNamara, I show you Plaintiff's Exhibit 117 for identification and ask you if you are familiar with that.

A Yes, I am.

Q Would you tell us to whom it is addressed and from whom?

MR. BOGEN: I am prepared to stipulate this without objection. I believe it is the Mayor's letter of January 1973.

THE WITNESS: Yes.

MR. BOGEN: I have no objection to this being introduced.

THE COURT: It may be received.

[Plaintiff's Exhibit 117 for identification received in evidence.]

Q What were the results of those meetings with the Building Trades Council and The Board of Urban Affairs, Mr. McNamara, in 1972?

A Ultimately the meetings broke off and ended in a notice to the parties that the City was not going to be

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Just for clarification of the record, when you say 1971 Order you are referring to Executive Order 71.as; opposed to the year 1971?

Yes, Executive Order 71 promulgated April 2, 1968.

To what categories of workers did these new Q regulations apply, Mr. McNamara?

These new regulations applied to all of the crafts in the building trades in New York City.

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Q To what category of workers within those crafts did it apply?

A It applied to journeymen, trainees and apprentices.

Q To what work of sheetmetal did those regulations apply?

A The new regulations applied not only to the work that a sheetmetal contractor was seeking to obtain from the City, but it also applied across the board to all of the contractors' work whether it is public, private, City or what-have-you.

Q What requirements did your office apply to sheetmetal contractors under those regulations?

A For the period ending July 1975, the period that we are in, the minority range was to be, I believe, 19 to 21% for the sheetmetal trade. They then go up, it is at an accelerated rate starting in the next annual period, so that by 1976 the sheetmetal as well as the other trades, it would require, the City would require that the contractor in sheetmetal must make a good faith effort to supply minority journeymen to an approximate proportion to the minority population at large.

Q What response, if any, has the Federal Government given to the City's program of affirmative action?

A The Office of Federal Contract Compliance approved

9 arsr McNamara - direct 1856 this program as well as our training orders on the one to four ratio.

It was approved by the office of Federal

Contract Compliance of the United States Department of

Labor sometime last year, I believe.

Q Are these new regulations written into City contracts?

A Yes, every City or City assisted contract includes the minority utilization range for all the trades, including sheetmetal.

Q Mr. McNamara, I bring you up to more recent times.

Did you ever have occasion to refer sheetmetal trainees to contractors?

A Yes, we did in 1974.

In the latter part of 1974, in the months of February and March, there were a series of job sites closed down by community groups protesting over the lack of minority journeymen or sheetmetal trainees on those sites.

Q What, if anything, did the City do in response to those community demonstrations?

A We met with the community groups, we met with the Board of Education, because it involved several schools.

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We also had some meetings, discussions with the Sheetmetal Contractors Association and, ultimately, the local union asked us to meet in their office. I believe that would be in March of 1974.

McNamara - direct

What position, if any, did the contractors express to you during meetings with the contractors?

A . If the job sites were closed down by the community demonstrations, the contractors said that they would hire minority trainees if referred to them in order to get the jobs going again, to resume construction.

Did you send minority trainees to those contractors?

Yes, we did send trainees to several contractors at that time.

At this point, how did you send the trainees to the contractors?

One of the responsibilities of our office is the recruitment of individuals interested in the building trades so the trainee coordinator and staff, after taking applications and so forth, escorted the men down to the sites where we were routing them to.

Did you receive reports of what transpired at the sites?

Yes. The field representatives would call me

2.3pm

11 arsr McNamara - direct

on the phone from the site and in some cases it would be followed up by meetings in my office.

We would also receive in some cases written staff memos describing what happened.

Q What were the nature of the reports that you received from these job sites, Mr. McNamara?

MR. BOGEN: Objection. If nature means the substance, I object. If it means whether written or something else, I have no objection. It is unclear.

THE COURT: I think she means the substance and your objection is overruled.

A The substance of the reports was that although the contractors hired the men in the sense they accepted them for employment, they never were actually permitted to go to work because the Local 28 men either refused to return to the job or they walked off the jobs in protest of minority trainees.

MS. GROSS: Would you mark these, please.

[Plaintiff's Exhibits 118 and 119 marked for identification.]

Q I show you Plaintiff's Exhibit 118 for identification and ask you if you can identify it

A Yes.

Q Would you tell us what it is, please?

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Mr. Woods out in the field and he wrote this up.

MS. GROSS: I offer it in evidence.

MR. BOGEN: May I have a moment to read it?

THE COURT: Sure.

MR. BOGEN: I don't have any objection to your Monor reading it but it is clear that this in no way has any relationship whatsoever to Local 28.

It speaks of a difficulty that Mr. Woods

apparently had with a foreman, made on behalf of an employer

and the inexperience of the trainees.

MS. GROSS: This goes to the weight and not to its admissibility and Mr. Bogen can cross-examine on the document. This is a relevant document which Mr. McNamara said he received in the ordinary course of business from this employee whose duty it was to report to him.

THE COURT: What point is there in cross-examining Mr. McNamara who hardly gets into it because this is written by some third party. We must get to the point soon where Mr. McNamara is going to say, "I wasn't there so I don't know."

I am not going to receive it.

Q Mr. McNamara, in relation to these walkoffs I think you mentioned something about the union. Did you meet with Local 28 regarding these events?

A Yes. We met at the union's office at 1790

Broadway sometime in March, I think the latter part of

March, 1974.

Q Can you remember any of the people who were present?

A The president at that time was Mr. Daniel
Pasquinnucci, Mr. Bogen, Mr. Rothberg was there as well
as some of the community representatives.

There were people there from the Board of Education, Mr. Dick Smith, the contract compliance man and various contractors.

Q What position, if any, of the City was expressed at this meeting?

A The City asked that the Union permit the employment of minority trainees on the sites that had been closed down, in order to alleviate the tensions in the community that were building up. There had been a lot of arrests.

Q What position, if any, of the union was put forth at that meeting?

A The union's position was that it would have to refer the matter to the Executive Board and ultimately the membership.

Q Were you informed of the results of what happened and what the results were ?

A Yes. Not too long after we met in the union headquarters, we were informed that the Executive Board rejected this proposal.

Q Who informed you of this, Mr. McNamara?

A There were so many phone calls and conversations that I would hesitate to say whether Mr. Bogen, I am reasonably certain was the source of the information.

MR. BOGEN: I don't want to quarrel with the witness, it was not I, but I will stipulate that Mr.

McNamara was informed of the action taken by the Executive Board and the membership in rejecting the proposal. No question about that.

Q What happened then, Mr. McNamara, after March 20th?

A After March 20th we ended up in the Federal Court before Judge Gurfein.

Q Tell us what happened between the time of going to court in March, whenever you did and what you heard from Mr. Bogen or whoever of the action taken.

A The City was involved in trying to work out a settlement with the union. Apparently the settlement would be in terms of the Court case and we then ended up --- I am sorry.

I recall one other episode. We were informed

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by the National Labor Relations Board that Local 28 had filed a complaint against the contractors in connection with the employment of minority trainees.

Q Did you continue to send trainees to those job sites?

A At this time we refrained from sending trainees to the sites that had been closed down.

There were some other sites though, as I recall, that we did refer trainees to where we had heard that the community pressure was building up and one of them was right over here in Foley Square, in the new Family Courthouse, a City Department of Public Works job.

Yes, we referred trainees there to triangle sheetmetal, Mr. Zwerling who testified was the contractor there.

- Q What was the result of sending those trainees?
- A Mr. Zwerling agreed to employ the trainee but when the trainee went downtown he wasn't permitted to be employed by the union representative.

Q What site --

MR. BOGEN: I move to strike that out unless he identifies who, what, where. Obviously Mr. McNamara has no personal knowledge of what took place there and if it is on the basis of a report, the report would indicate

as to that.

2.4pm

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THE COURT: I think we should have something more definite as to who reported back and who was actually there. I am going to take his general testimony on the basis that he is the director and gets these field reports back in a regular course, part of his doing business.

MS. GROSS: He did testify that about 25 people make reports to him.

THE COURT: It is right close to City Hall here.

MR. BOGEN: If for no other reason than proximity to the courthouse, I will have a general objection to Mr. McNamara testifying as to the work that is going on outside the door but regardless of how he gets it, and I would accept the statement of the report but your Honor has read the document that was rejected about who kept them off the job and that type of thing and that is the invideous problem here.

The man wasn't put to work by the union official and your Honor can take judicial notice that the union has nothing to do with the hiring as such. This is a shotgun barrage as to what is involved, yes, he wasn't put to work, that type of thing.

MS. GROSS: I understood your objection made

19 arsr McNamara - direct 1866
the first time so I am going to ask a new question.

Q Mr. McNamara, did you receive a report from the field investigator at the Foley Square site you referred to?

A Yes, I received a written report of a staff man, our field man who was Mr. Chung Lee. The report was also signed by Mr. Zwerling and if I am not mistken the foreman and shop steward signed the same document. It is in my file.

MS. GROSS: Will you mark this, please.

[Plaintiff's Exhibit 120 marked for identification.]

Q Mr. McNamara, I show you Plaintiff's Exhibit 120 and ask you to read the names on it if you can. Chung Lee is the first name. Can you identify the name of Lee Louis?

A Lee Louis and the next man, Michael Brant were employees of the company. Frankly I don't recall who was the shop steward and the foreman but they were both employed on that site.

Mr. Zwerling, of course, is one of the owners of Triangle Sheetmetal who was doing the job.

Q Was that document part of the record report made to you by Mr. Chung Lee from the job site?

A Yes, brought it back to me the day it was signed,

on the 29th of March.

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Q Whose signatures appear on this document. I

first direct your attention to Page 2 and Page 3.

A My staff man Chung Lee and the steward and I believe the foreman at that site.

Q Mr. Zwerling's signature, also?

A Yes, Mr. Zwerling's signature, yes.

MS. GROSS: I offer it in evidence.

MR. BOGEN: If your Honor please, the difficulty with this exhibit -- I have no objection to your Honor reading it at this time -- that it relates to third and fourth hearsay removed. I have no objection if in fact this was a report by a field investigator or representative on behalf of Mr. McNamara as to what was said, et cetera.

But he repeats in here what was told to him or what two other people told him took place in phone conversations, et cetera.

Obviously, the workshop record rules or business document exception doesn't extend to this remote kind of hearsay. I have a strong objection as to whether the report purports to relate what was told to him by other people and I do object to the introduction of this document for that purpose.

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McNamara-direct

MR. TUMINARC: Your Honor, I believe the objection that is being made here goes to the weight of the evidence, not the admissibility. I think, under the doctrine, that this is a record kept in the ordinary course of business and it should be admitted.

Your Honor can use your own judgment, no doubt, in deciding how much weight to give the aspects of the contents which Mr. Bogen asserts is remote.

MR. BOGEN: Your Honor, the concept of the shop rule exeption to hearsay is one of competency, and to the extent it is an exception to hearsay it is not a question of weight. A basic question has to be decided.

I concede that if in fact it related what was reported to this investigator, which is hearsay, it is twice hearsay. It is what is related to the investigator and he in turn relates it to Mr. McNamara, and it is being offered for the truth.

Under the normal rules I would have no objection. But that is not this instrument before you.

It relates four hearsays removed, what somebody told the people there and then in turn by bootstraps it is trying to be offered here for the truth of what it contains.

If it isn't offered for the truth of what it

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contains, then I object to it that it has not relevance at all. That is the distinction, your Honor, not a question of weight at all.

MS. GROSS: Mr. Bogen misrepresents the nature of the document. Mr.McNamara did not/testify that Chung Lee came back and said this is what was told to him. He testified that Mr. Chung Lee came back with this document in his hand. The document itself is signed by both the employer and the people who were present to indicate, and does say, that the events are correctly represented there.

So the report of Mr. Chung Lee isn't itself hearsay. We offer this for its own weight.

I would call upon Mr. Rothberg, if necessary, to ask him whether he has received this document from Mr. Zwerling in the original.

MR. BOGEN: Whether he received it or not is unimportant. The report itself is hearsay, that is the point, and you could overcome that by the fact that it is kept in the ordinary course of business, et cetera, et cetera. By definition the report is hearsay.

In this instance it is a report of what somebody else purportedly told other people. To that extent it is outside the exception.

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THE COURT: Wait a minute. You know, there are certain things that are outside any exception to the hearsay rule which the Court in the interest of discretion and in the interest of justice may admit.

I am admitting this and I'll consider what weight to give to it on that basis.

MR. BOGEN: I am not quarreling with your Honor's ruling, although I respectfully disagree with it.

THE COURT: You will have an opportunity,
you know. You are going to have your recording secretary
here. Ask him whether he had this conversation with Mr.
Zwerling or his shop steward or foreman. It has the rung
of authenticity. All right?

MR. BOGEN: The point is this, your Honor:
There are three people involved who it would seem to me
have been bootstrapped out. There is no question that
Mr. O'Reilly is being called.

It seems to me, however, that I should not be faced with that burden with respect to this document when we have somebody who apparently signed the document. We have the agent on the job who reported to two people. I mean, it is an unfair burden at this time to say to me, "You answer it. We have four or five conversations here and your people can come up and deny it."

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THE COURT: I don't think it is an unfair burden at all.

(Plaintiff's Exhibit 120 received in evidence)

BY MS. GROSS:

Q Mr. McNamara, to the best of your recollection, what job sites were involved during this February - March period of 1974 in the shutdowns or in walkoffs?

I believe Brook Sheetmetal was the contractor. We had a new boys high school, also in that general part of Brooklyn where fed sheetmetal was involved. And we had the Triangle job, Mr. Zwerling's job, a new Family Court. We also had a job in Manhattan, Fashion Institute of Technology.

I believe the contractor was Alpine.

We had another job in East Harlem, Rupert Houses, where the contractor was Viking, if I'm not mistaken.

Q Now, what happened as the result of the job shutdowns?

MR. BOGEN: Excuse me, your Honor. I didn't object before because I thought we were going to drop it.

She said "job shutdowns." There is nothing in this testimony, certainly the document doesn't indicate that

1	JgJw 5 McNamara-direct
2	situation at all. And the one your Honor just received
3	didn't indize a there was a walkoff or shutdown.
4	sk that that be stricken. To the extent
5	I didn't rise before it was because I thought there was
6	going to be an end to it, but apparently now it is rote.
7	It is built up by just repeating itself.
8	THE COUPT: The question and the answer may
9	be struck. I think you have to do it again in a different
10	way.
11	Q Did there come a time when you referred
12	trainees to these job sites, Mr. McNamara?
13	A Yes.
14	Q What were the circumstances surrounding
15	that?
16	A The employers, the individual employers,
17	agreed that they would live up to their contractual require-
18	ments and hire these individuals.
19 .	We were also very concerned about the strife
20	and the arrests and we were anxious to try to work something
21	out.
22	Q Was there a time that you referred trainees
23	when there was no strife and arrests?
24	MR. BOGEN: Objection, your Honor, as leading.
25	THE COURT: Leading.

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Q Did you have later occasion to refer minority sheetmetal workers to these job sites?

MR. BOGEN: Objection, your Honor. I don't know that it has been established that there was another time.

MS. GROSS: We established this was February and March '74, Mr. Bogen.

THE COURT: All right. We'll take that as the date. I think that is what she is talking about.

Is that the time frame here?

THE WITNESS: We referred trainees, now we are getting into April, your Honor.

THE COURT: All right.

obtained a Supreme Court order from Federal Judge Gurfein,

Murray Gurfein I believe, which ordered the Joint Apprenticeship Committee to permit six minority trainees to go to
work, and we proceeded to place them.

MR. BOGEN: If your Honor please, at this time I certainly don't want to quarrel with Mr. McNamara's version as he understand it, but I respectfully refer the Court to Judge Gurfein's order of April 19th in respect to the circumstances and what was involved with that.

Certainly at that time there is no mistake as

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far as we are concerned. That is why I am requesting the Court to examine the order. It had nothing to do with sending trainees to the jobs. The reference to the trainees was when there was a prohibition against the City from referring trainees to job sites.

MS. GROSS: Since Mr. Bogen has felt it necessary, notwithstanding his deference to the Court, to characterize the order, I will also indicate that a part of the order enjoined the union from further stoppages, et cetera, on the job sites on which trainees are expected to be hired.

Q Now, subsequent to April '74, Mr. McNamara, did there come a later time when you referred other trainees to sheetmetal contractors?

A Only after the Court ordered them to take another 14 men, in the month of July, I believe. I think it was a court order of July 2nd that Gurfein issued directing them to accept 14 more trainees.

MR. BOGEN: Your Honor, I object to the characterization as to what the order did. The order is received and it certainly didn't refer trainees to the job site. I ask that to that extent the answer -- well, let it stand, but I indicate that the order to which Mr. McNamara refers is the best evidence of what took place.

A (Continuing) I want to correct what I said.

The order was directed at the Joint Apprenticeship

Committee, and that's where we referred the 14 men pursuant to that order.

- Q Did you recruit to men?
- A Yes, we did.
- Q And to whom did you direct them?
- A We sent them up to Mr. Schlutter's office, who is and was the Joint Apprenticeship Director.
 - Q You sent them up in what way?

A Our staff first recruited them, took applications in my office, and then we escorted them and took them up in groups to be tested or interviewed by the Joint Apprenticeship Committee Director, Mr. Robert Schluter.

Q And what happened when these men were taken up there, Mr. McNamara?

MR. BOGEN: I object. At this point I don't think Mr. McNamara was present, unless it is established that he was present at the office.

Q Did you have conversations with Mr. Schluter during this time?

A Oh, yes, numerous conversations with Mr. Schluter.

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A They are taking place with the leadership of the Building Trades Council, Mr. Thomas Tobin, various attorneys, Board of Urban Affairs people.

Q Is the minority community participating in these negotiations?

A The minority community is not directly participating in the negotiations, but they are kept informed in a general way as to the progress or lack of progress from the City.

Q Are any other governments participating in the negotiations?

A The State of New York has been at some of the meetings.

MS. GROSS: Thank you, Mr. McNa ara.

DIRECT EXAMINATION

BY MR. ADAMS:

Mr. McNamara, during your testimony this
morning you stated that there had been a suggestion made
with regard to compliance with the City's regulations
that the contractors hire people from a sister sheetmetal
local.

Do you know what sheetmetal local was the suggested source?

A Yes. I believe it was Local 400.

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Q Mr. McNamara, you testified, I believe this afternoon, that the new rules and regulations under the City's Executive Order called for 19 to 21 percent minority participation at the present time in the sheet-metal trade, is that correct?

A Yes, that's correct. The current period expiring July of 1975, this year. Then it goes up.

Q And you stated that the ultimate goal under the rules and regulations was to match the minority population in the City.

A It was to approximate the minority population in the City in terms of journeymen employed by sheetmetal contractors.

Q Was there any particular figure that the City has used as a goal based on population?

MR. BOGEN: Objection.

A Yes. In the --

MR. BOGEN: Excuse me. Objection.

THE COURT: What is the basis of the objection?

MR. BOGEN: He has already testified as to what the goal was, and I assume this is a continuation of direct to determine what was the predicate for that.

THE COURT: I'll let him answer the question, if he knows.

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A Yes. In the program that we submitted to the Office of Federal Contract Compliance we used a figure for minority population in New York City that would include Spanish speaking, orientals, blacks and some American Indians, totalling cumulatively 38-1/2 percent.

Q What was -- .

A I'm sorry. That was the program that was approved by Mr. Brennan's Department of Labor. Secretary Brennan. Excuse me.

MR. ADAMS: I don't have any further questions.

THE COURT: All right.

MR. TUMINARO: I have no questions.

THE COURT: Suppose we take a break before we put Mr. Bogen to work.

(Recess)

CROSS EXAMINATION

BY MR. BOGEN:

O Mr. McNamara, I believe you told us this morning that after the City promulgated Executive Order 71 in 1968 your office, or you, tried to work out a program with Local 28.

Do you recall testifying this morning to that effect?

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McNamara - cross

A The City was involved in the negotiations with the Board of Urban Affairs for a program of minority trainees all through 1970, both before the promulgation of the order and after it until it was signed on December 10, 1970.

Q Was Local 28 involved actively with these negotiations in an attempt to become part of the program, to your knowledge?

A No, the Building Trades Council was the mechanism for dealing with labor plus the Board of Urban Affairs.

I don't recall any local union directly sitting in on these negotiations.

They worked through their counsel and through the Board of Urban Affairs.

- Q There came a time when the City signed the agreement, I believe in December?
 - A Yes.
 - 0 1970?
 - A December 10, 1970 is correct.
- O At that time you told us four locals did not sign or participate, right?
 - A Voluntarily?
 - Q Refused to partipate.
 - A Four locals boycotted or refused to participate.

SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE FOLEY SQUARE, NEW YORK, N.Y CO 7-4580

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McNamara - cross

	Q	They	didn	't sign	, it	was a	vo	luntary	program,
they	didn	't war	nt to	sign,	isn'	t tha	t a	fact?	*

A Well, it had been voted by the Building Trades
Council where it was reported there was no dissenting of
vote taken.

Q Were you at the .--

A No, this was conveyed by the leadership of the Building Trades Council.

Q There came a point in time where four locals did not participate in the program?

A Yes, sir.

Q You told us that the City, you undertook to negotiate -- the laborers you weren't concerned about because it was a semi-skilled activity?

A That is correct.

Q Electricians three, plumbers one, two, 371.

Were the plumbers treated more or less as one group or three separate segments?

A No, we had to deal separately with each one of the three jurisdictions. They are geographical jurisdictions and met separately and independently. We met with them.

Q The flaamfitters 368 did not participate in the program initially?

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McNamara - cross

- A Initially they did not sign off on the program.
- Q Local 28 initially didn't sign?
- A Didn't and never did to this day.
- 0 With respect to the electricians, did you or somebody in your office undertake negotiations for them to participate?
- A I was assigned by the Mayor as a representative of the City meeting with Mr. VanArsdale and his organization, yes.
- Q You negotiated some type of program other than the formal program that was adopted in the December agreement, is that correct?
 - A Yes, we did.
- Q This was a variation, aside from what the City was looking for, but it wasn't the trainee program that was part of this agreement; is that correct?
- A No, it was precisely the same type of program.

 It involved trainees, the same kind of individuals. The only distinction was Local 3 of the Electricians was not participating in the Board of Urban Affairs.

so they worked out comparable but identical programs in many respects. The only difference would be the City had more input into the direct administration of the electrical employment program.

O The plumbers worked out some special arrangement with respect to their participation?

A Yes. Again, I was appointed by the Mayor and worked out programs with Locals 1, 2 and a verbal agreement with the Staten Island Local, a very small local.

Q This was a variation on the December 1970 agreement, is that correct?

A Im essence the basic approach but some variations in terms of members and administration of a tighter administration.

Q The 368 did work out a variation of December 1970 agreement?

A There were no actual meetings with the steamfitters. We were called in March 1971 that there had been
some misunderstanding and that now they wanted to be clear
that they would go along with the program even though they
had not signed the statement sent around by Mr. Brennan's
office. They went on record as being agreeable. We
didn't have to go through lengthy negotiations.

McNamara-cross

Q Now, do you know if anyone negotiated or sought to negotiate with Local 28 with respect to its participation or --

A Yes, we did. We met in City Hall with yourself and the late President Mel Farrell.

Q Except for that meeting, do you have any other knowledge about what meetings or negotiations took place?

A Only with the Contractors Association. No further meetings with Local 28. We imposed the freeze at that point.

Q Will you tell us the position, as best you can recall it, that Local 28 took -- withdrawn -- that the City took with respect to the participation by Local 28 in the program?

A What the City's position was?

Q Yes.

Prior to this meeting that we are talking about in the Mayor's office, the Deputy Mayor's office, did you know Local 28's position with respect to participating or not participating in the New York Plan?

A Sure. We knew it through Pete Brennan.

He said the local wouldn't buy it. We knew it through

the Board of Urban Affairs. They said they would boycott it.

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McNamara-cross

you that 28 wouldn't participate because the trainee concept was not a concept, didn't provide for appropriate training for people to come into the sheetmetal trade in New York City?

A I must say he didn't put it in those words and some of his conversations would be directly with the mayor's office and not with myself at that time.

Q In sum and substance was that a position taken by Local 28, that this was not the proper way to train people?

A In sum and substance, yes. They said they wouldn't have anything to do with it.

Q In addition to not having anything to do with it, did they say why? Did they say that this was not the way to train people to come into the sheetmetal trade?

A No. They separated out some statistics to show a number of minority apprentices and they felt that was, you know, an adequate effort and they were insistent on maintaining the present apprenticeship system as the exclusive entry level into their union.

Q And did they say in words or substance that the apprentice program was the appropriate way of training sheetmetal workers to come into the trade?

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McNamara-cross

A They sure made it clear it was the only way they would train them.

Q Right.

As a matter of fact, do you recall Mr. Farrell stating in words or substance, on his position being related to you, that the idea of putting a trainee on a job for a couple of weeks and then throwing him -- withdrawn.

We talked about the New York Plan and the trainee program. You haven't gone into specifics.

How does the New York Plan -- how did the New York Plan operate with respect to the assignment of work and that type of thing? Can you tell us, Mr. McNamara?

M Certaonly. One of the responsibilities of my office at some point in time was, when I was Director of the Building Trades training program, my office would receive notifications from all the City agencies, mayorial and non-mayorial, as to what construction projects they were planning to advertise, and along with that information they would give us an estimate of the manpower on a trade by trade basis that would be needed to complete those jobs.

We would then plot out -- that was the expression

ı	jgjw 18 McNamara-cross
2	A Yes. We were having great problems and he
3	reported that.
4	Q And as a matter of fact, except for the
5	community politics, he would have no quarrel with Local
6	28 at that point, would he?
7	A Oh, no. We had an executive order
8	Q Not "we". "He." Mr. Aurielo.
9	A I don't recall anything like that whatsoever,
0	no, sir.
1	Q If you recall, sir, what was Mr. Farrell's
2	position, in words or substance, at that time?
3	A At the City Hall meeting?
4	Q Yes. That's the only thing we are talking
15	about.
16	A Yes. Mr. Farrell reported that he had an
17	apprenticeship program which had some minority men in
18	there and he felt that the apprenticeship program was
19	good enough as a vehicle to produce new minority journeymen.
20	Q Anything else?
21	A That's the long and short of it. And he
22	gave us some statistics on what his what the composition
23	was ethnically of Local 28.
24	Q Did he give you, do you recall, statistics
25	with respect to the composition of the apprenticeship program

1	jgjw 19 McNamara-cross
2	at that time?
3	A Yes. I'm quite certain he gave us the
4	apprenticeship statistics as well as journeymen statistics.
5	Q Do you recall what the apprenticeship statistics
6	were at that time?
7	A I honestly don't. But I'm sure if I go
8	back to my notes I could get them. I really don't
9	remember.
10	Q If I suggested to you that he indicated
11	they had about 18 to 22 percent minorities in the program,
12	would that refresh your memory at all?
13	A Frankly, I don't recall. I don't dispute
14	that, but I honestly don't recall.
15	Q If it doesn't refresh your memory, it doesn't
16	refresh your memory.
17	A It doesn't for the moment, no.
18	Q Do you recall his stating when he gave the
19	statistics, set forth the statistics, do you recall what,
20	if anything, Mr. Aurielo said or any of the other people
21	said with respect to the City's position in light of
22	those statistics?
23	A Yes. We still indicated that we would have
24	to get larger numbers of minorities into that union.
25	I remember that very vividly. , 739

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Do you recall his saying that there was no program with respect to this training concept that would lead to a journeymanship in any of the trades, letalone

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McNamara-cross

dettind into Local 28

jgjw 21

the sheetmetal trades? Do you recall him saying that?

A No, I don't recall him saying that. Just general resistance to the program. I don't recall that type of specific analysis.

Q You said -- except for what you've told us, did he specify why he resisted or what the resistance was based upon, Mr. McNamara?

A It was based on his often stated position or conviction that there were no new training methods necessary to integrate his local, that the sheetmetal local would accomplish that through the apprenticeship route.

We, of course, analyzed what that apprenticeship route would produce in terms of numbers, and it was such a tiny number, I think we figured it would take to the year 2020 to integrate Local 28.

- Q Is that what you told him at this meeting?
- A No. Subsequent to that, the followup.
- Q You told that to Mr. Farrell?

A No, no, not at that meeting. After we absorbed the figures he presented us with, we did some, you know, rough calculations as to relying on the apprenticeship program as the exclusive method for integrating that industry.

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Q I just want to make this clear. Was there a followup, these statistical evaluations or these numbers, was this a followup to the meeting?

A Yes. Back in our office, our building trades training program people and staff dug into the figures and projected them. That was after the Farrell meeting, yes, sir.

Q At the end of the meeting was the issue left open as to further negotiations or further compliance or further --

A My best recollection is that the City informed Mr. Farrell that we would have to enforce our executive orders. I don't recall any subsequent meetings being scheduled. The meeting ended on sort of an abrupt note and the only subsequent meeting I recall was this one through Tommy Carlough, who was a member of 28 but purporting to represent the International Association.

Q You said there came a time when the City withdrew, when you introduced some documents indicating the City withdrawing from the New York Plan.

Do you recall that?

A Yes.

Q What was the basis of the City withdrawing from the Plan?

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McNamara-cross

The first basis for withdrawal was that the number of trainees that were committed by the various local unions were never permitted to go to work, they renegged on allowing these men to be employed.

What do you mean, weren't permitted to go to work?

A I mean that although there were hundreds of openings for minority trainees on City and State sites, the local unions would not permit the trainees to be processed and taken down by our staff. That was one of our major objections.

- Q That is before you even got to the job.
- A That's right. They were not --
- Q Even though they had agreed to take --
- A I don't have to tell you.
- Q I wish you would.

A Okay. For anyone to be employed on a construction site, a unionized construction site, you have to have some type of credential, at least after a period of a few days, and that would mean you would have to show that you were a bona fide apprentice; if you weren't an apprentice, you would have to have some identification as a trainee, or of course, if you are a journeyman, you would be a member of the local.

25

Now, with respect to the people who were

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	jgjw 26 McNamara-cross
	far as you were concerned, right?
	A That's correct.
.	Q And you came to a final conclusion after 18
,	months, is that correct?
;	A 18 months we concluded we wouldn't renew.
,	We allowed another six months or so for some discussions
3	and we officially withdrew from the Plan two years ago
,	this month.
0	. Q Were there any other reasons besides these
1.	two?
2	A Yes.
3	Q What was the third reason?
4	A The third reason was we felt that certain
5	local unions arbitrarily denied men credit for previous
6	trade experience, contrary to the design of the program
7	that they had committed themselves to.
8	Q What was that credit for? How was that to
9	work?
20	A That credit was to give them advanced stand-
21	ing if they could demonstrate previous employment in
22	that craft, so that they would not have to go through a
23	cycle of training as long as, say, a four or five year
24	apprentice, depending

Q.

Is that normally -- you mentioned four or five.

1	jgjw 27 McNamara-cross
2	Is that the normal apprentice program, four or five
3	years?
•	A There are some crafts that have three year
5	programs, some that have four, a few that have five.
3	I would say the median is probably closer to three years.
7	Q Now, so that was the third reason. They
8	weren't given enough credit leading up to being a journey-
9	man, is that correct?
0	A Yes, sir.
1.	Q Now, was there any other reason with respect
2	to why you felt or the City felt that the program wasn't
3	proper, the New York Plan wasn't good?
4	A Yes. Tied into this failure to give them
.5	proper previous credit, a resulting factor of that was
6	not enough men moved up enough rapidly to obtain journey-
17	men status as we expected or hope would occur.
18	Q That is a fourth reason.
19	A Yes.
20	Q Was there a fifth or any other reason, Mr.
21	McNamara?
22	A Yes. One of the major reasons was that we
23	found that the New York Plan, the Board of Urban Affairs
24	Plan, was being held out as a shield in certain agencies
25	for other affirmative action. In other words, a contractor

McNamara-cross

would simply say, "I'm part of the Board of Urban Affairs.

I don't have to hire any minority journeymen or anything else."

We found that this agreement was being misused as evidence of having a comprehensive affirmative action program when in fact it was only a modest training program.

Q Were there any other reasons why you felt, or the City was unsatisfied, disappointed, rejected the New York Plan, other than the five reasons you gave us now?

A That about sums up the major problems we encountered.

Q Mr. McNamara, having stated seriatim the five reasons why the City was unsatisfied or thought the plan was unsatisfactory, aren't at least four of those reasons precisely the reasons that Mr. Farrell gave the City time and time again for why the program wouldn't work and couldn't work in the building trades?

A Mr. Farrell never told us not to trust the commitments of the sister locals.

Q I'm not talking about trusting or not. But with respect to the actual concept, the five reasons that you gave, with respect to the training was inadequate,

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1	jgjw 29 McNamara-cross
2	with respect to the fact that they weren't going to get
3	credit, with respect to the fact that they weren't getting
4	journeymanship, weren't these the same reasons Mr. Farrell
5	gave why the New York Plan wouldn't work?
6	A Mr. Farrell never told us that the other
7	trades couldn't be trusted to give them journeyman
8	status.
9	Q You said that twice so you must think it
10	important to state it twice. Holding aside the conclusion
11	of whether he trusted them or not, I am talking about
12	the nuts and bolts of it.
13	He told you that the training was improper
14	and inadequate, didn't he?
15	A I don't remember any detailed discussion
16	in that very brief and futile meeting in City Hall along
17	those lines. No, sir, I don't remember that kind of
18	specifity at all.
19	Q In any event, there came a time when the
20	City withdrew from the Plan because it wasn't any good
21	and wasn't working.
22	A Yes. Mr. Farrell was long gone by then. He
23	wasn't around.
24	Q No. But you remember what he said to you,
25	don't you?

1	jgjw 30 McNamara-cross
2	A I sure do, not what you just asked me.
3	Q So there is no misunderstanding, Mr. Farrell
4	didn't like the New York Plan and he wouldn't accede
5	to it, is that right?
6	A Mr. Farrell liked the
7	Q Would he accede to it?
8	A. Mr. Farrell liked the New York Plan enough
9	to make his employers pay into the funding of the New
10	York Plan. He didn't like it enough, though, to actually
11	let them hire the trainees.
12	Q Well, now that you said that, I'll ask that
13	that be stricken, your Honor. It has nothing to do with
14	any question I have raised. It is a conclusion on the
15	part of the witness with respect to that and it is his
16	editorializing. If he has to have a platform, this is
17	not the place to
18	THE COURT: You know, you really asked for
19	it, because you are going back over and over the same
20	ground again and again.
21	MR. BOGEN: I don't mean to, your Honor.
22	I certainly won't pursue it.
23	THE COURT: I heard the question about what
24	Mr. Farrell said at least five times. I've been keeping
25	score.

1	jgjw 5 Moss-direct 1974
2	did you know of any other sheetmetal unions in New York
3	City?
4	A Yes.
5	Q Which one or ones?
6	A I knew of Local 28, in the building line.
7	Q Did you ever attempt to join Local 28 prior,
8	in the '.50s?
9	A In the '50s, no.
10	Q What was the reason?
11	MR. BOGEN: Objection, your Honor. The
12	answer speaks for itself. I don't believe on direct
13	examination that it is proper to ask the reason why he
14	did or didn't do a thing.
15	THE COURT: I think it is proper. He may
16	answer. Overruled.
17	Q Why didn't you join?
18	A There wasn't any blacks in Local 28 at that
19	particular time.
20	Q Now, you indicated that you joined Local 401
21	in approximately 1959.
22	How long did you remain a member of 401?
23	A About a year.
24	Q And why did you leave that union?
25	A Oh, when I joined 401, they had it is my
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join 401, and if you got laid off or for any reason you left the Navana, you could transfer into Local 28.

At that particular time I found out that people were getting laid of by leaving the Navy Yard -- when they got laid off, they couldn't get into Local 28. For that particular reason I got out of Local 401.

Q Now, did you continue to work at the Navy
Yard after you quit 401?

A Yes.

Q And how long did you stay at the Navy Yard?

A Istayed in the Navy Yard until 1965.

Q And what happened then?

A Well, they gave us a one-year notice that they would be closing the Navy Yard.

When did they give you that notice?

A In 1964.

Q And when you received that notice, what, if anything, did you do?

A Well, when I received the notice, I started looking around for other employment. So I stopped at the NAACP and I had them write a letter to Local 28, to send an application, inquiring about me joining.

Q And when approximately was that, sir?

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The Transit Authority here in the City? Q

In the City of New York. A

And what position did you take with the Q

You continued to work at the Brooklyn Navy Yard from 1965 until it closed, didn't you?

> A Yes.

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What was the basis at that time for your withdrawing from 401?

I joined it for the protection I could get

CROSS EXAMINATION

24

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A I don't remember receiving that notice.

because you hadn't paid dues to 401?

people being assigned from 401, when the Navy Yard closed, to locals all over the area?

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No, I don't recall. Later I recall, I have heard, and I have talked to someone, that this was a non-black person that they got into Local 28.

1	22 arsr	Jonas - direct	2038
2	Q	Have you had any other training, vocation	nal
3	training	or education in addition to six standard?	
4	A	I went to trade school in Jamaica.	
5	Q	How long were you in trade school?	
6	A	I was in trade school about four years.	
7	Q	In what field was it?	
. 8	A	In sheetmetal.	
9	Q	Since you have been in this country have	you
10	had any c	other schooling, training school or	
11	A	Yes.	
1.2	Q .	Where was that, sir?	
13	A	In Queens.	
14	Q	For how long?	
15	A	Five months.	
16	Q	What field was that?	
17	A	Same, sheetmetal work.	
18	Q	Have you had any other education?	
19	A	Continuing to go to Manhattan Technical.	
20	Q	How long did you go there?	
21	A	About the same time.	
22	Q	What trade was that in?	
23	A	Sheetmetal.	
24	Q	What is your present occupation?	
25	Α .	Sheetmetal worker.	MPM

1	23 arsr	Jonas - direct 2039	
2	Q	When did you first start in sheetmetal?	
3	. A	From I left school.	
4	Q	When?	
5	A	About 1960.	
6	Q	That was in Jamaica?	
7	A	Yes.	
8	· Q	What type of sheetmetal work do you do?	
9	. А	Sheetmetal work for air conditioning.	
10	Q	What types of jobs do you perform?	
11	A	OUtside installation.	
12	Q	Do you do anything else in addition to outside?	
13	Α .	A little fabricating.	
14	. Q	You indicated that you came to this country in	
15	1968. What type of employment did you have in 1968?		
16	A	First job I got was working at Irving Subway &	
17	Crating.		
18	Q	What kind of work?	
19	A	They make iron grates and manholes for the streets.	
20	Q	The round manholes that they put in the street	
21	like a ma	nhole cover?	
22	A	Right.	
23	Q	How long did you work at Irving Subway & Crating?	
24	. A	Six. or. eight months.	
25	Q	What did you do after that?	
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- At Integrity how many men were working with you in sheetmetal?
 - Thirteen guys.

1	25 arsr	Jonas - direct 2041
2	Q	Were they members of a union?
3	. A	All union, 295.
4	Q	Of this group of thirteen men, how many were
5	black or S	Spanish?
6	A	Eight black guys and about two Spanish.
7	Q	How long did you work for Integrity?
8	A	Two years plus.
9	Q	What happened? Why did you leave the company?
10	Α	It all started on the job I was working at
11	Cooperstov	vn.
12	Q	Where is Cooperstown?
13	A	Upstate New York. I was working in the Baseball
14	Hall of Fa	ame and we were working there three weeks.
15	Q	What kind of work were you doing?
16	A	Sheetmetal work, installation. This one morning
17	there was	five guys outside asking us for union books.
18	We showed	them, they said they never heard about this
19	union and	they said I have to stop the job and talk to
20	your super	rvisor.
21	Q	Did they identify themselves?
22	A	Yes, showed the books.
23	Q	What books?
24	A	28.
25	Q.	After these men identified themselves, what
		r 760

When you went back to the shop, what, if anything,

Went back to the shop in New York.

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1	27 arsr	Jonas - direct 2043
2	happened?	
3	. A	We had a little unfir ished job. I start doing
4	it.	
5	Q ·	Where was that?
6	A	In 125th Street and Third Avenue.
7	Q	When that little job was finished, what did you
8	do?	
9	A	Went back to the shop and thye arranged to move
10	to a bigg	er shop.
11	Q	Integrity was moving?
12	A	Yes, to a bigger location.
13	Q	Where was the new location?
14	A	In Hooper Street in Brooklyn, right near the
15	Brooklyn	Navy Yard.
16	Q	How do you spell that?
17	A	H-o-o-p-e-r.
18	Q	What did you do then when they said they were
19	moving?	
20	A	Well, all of us get together, pack up and help
21	him move.	
22	Q	Helped move to the new building?
23	A	Yes.
24	Q	After it was moved over, the company moved and
25	changed 1	ocations, did you remain?

1	28 arsr Jonas - direct 2044
2	A Remained, they have a little job, a five ton
3	unit in the office. We started working up there. In
4	that process they changed the name of the company.
5	Q Do you remember what the name of the company
6	was?
7	A Tru-Vent. Changed it to True-Vent.
8	Q What happened after that?
9	A So Local 28 guys come in. They were new guys.
0	Q How many?
1	A About six guys in there.
12	Q Did you continue to work for the company after
13	that?
14	A Yes, continued to finish that little job I got
15	there.
16	Q Then what happened?
17	A One morning we came in and the boss told us that
18	he is sorry, he tried to get us in 28 but they wouldn't
19	go for it.
20	MR. BOGEN: I move to strike that. Certainly
21	that is hearsay.
22	MR. CORSI: This is something that happened to
23	him as he is relating it, and the incident that happened
24	to him. It seems to me it is res gestae and to that extent

it is an exception to the hearsay rule.

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THE COURT: We try them all but I am going to accept it. I will accept the answer.

You indicated that the boss said to you that he tried to get you in but he couldn't get you in?

A That is what he said.

Q When he told you that did you continue working for this company?

Continued to work about a couple of days after that. Then he fired us.

Did he say anything when he fired you?

MR. BOGEN: Objection, your Honor.

THE COURT: What is the objection?

MR. BOGEN: Again certainly this is hearsay as it was the first time and your Honor let it in and certainly any conversation the employer had after he fired the men certainly is not binding on 28.

MR. CORSI: It seems to me he is relating what happened to him.

MR. BOGEN: If in fact this is of significance the Government can produce the employer and have him testify as to that situation. You are now getting it third removed. 461.

THE COURT: I don't think it is third removed. This is what was told to him.

What did you do when you went into the union office?

1	31 arsr Jonas - direct 2047
2	A We told them that we would like to get an
3	application to fill out.
4	Q Did you receieve an application?
5	A The guy told us they are not giving out any
6	applications.
7	Q After that, after you went to the union office,
8	and you did not get an application, what happened? What
9	did you do?
10	A I start looking for another job so I went to
11	my union.
12	Q What union are you referring to?
13	A 295 local, Operating Engineers.
14	Q What happened when you went to the union?
15	A Mr. Valentine got me a job at Triple A Sheetmetal.
16	Q When approximately was that?
17	A The precise time?
18 .	Q Soon after you were fired or 197, says to the
19	A Yes, soon after I was fired or I had to get
20	something to do because I have a family to take care of.
21	Q What was the name of the company you worked
. 22	for right after you were fired?

A 'Fast Pace.

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Q How long did you stay at Fast Pace approximately.

A Five months.

. 1	32 arsr	Jonas - direct 20	48
2	Q	What kind of work did you do at Fast Pace?	
3	. а	Duct work.	
4	Q	How much were you earning at that point with	
5	Fast Pace	?	:
6	A	\$3.50 an hour.	
7	Q	You indicated that you stayed at Fast Pace for	r
8	about fiv	e months or so. What did you do after that?	
9	, · A	I went to Triple A Sheetmetal.	
10	Q	What kind of work did you do at Triple A?	
11	- A	Same, duct work, outside installation.	
12	Q	How long did you stay at Triple A?	
13	A	Ever since I am there.	,
14	Q	How much are you earning there?	
15	A	\$4.60.	
16	Q	Is that an hour?	
17	A	Am hour.	
18 -	. 0	How many people were working with you doing	.1
19	sheetmeta	al at Triple A?	
- 20	- A	We have a shop, it has fourteen guys.	
21	Q	Are these men members of a union?	1
- 22	A .	Yes, all members.	
23	. Q	What union?	
24	A	295, Operating Engineers.	
25	Q	These fourteen men, how many are black or Spa	nish?

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We got four black guys on the outside, three on the ir ide; two Spanish guys and the rest are Greeks and some from Puerto Rico.

MR. CORSI: I have no further questions.

T3am	1	JGjw 1 Jonas-cross
	. 2	CROSS EXAMINATION
xxx	3	BY MR. TUMINARO:
9	. 4	Q You testified you were fired from Integrity
	5	Sheetmetal, is that correct?
	6	A Yes.
	7	Q And I believe you indicated that some Local
	8	28 men had come shortly before that.
	9	A Right.
	10	Q Did any of these men get hired by Integrity
	11	Sheetmetal?
	12	A The company had changed the name at that
	13	time.
	14	Q And was there a difference, if any, in the
	15	union jurisdiction?
	16	MR. BOGEN: Objection, your Honor.
	17	Q The union that came into this company when
	18	it changed its name?
	19	MR. BOGEN: I withdraw the objection.
	20	A I don't understand that.
	21	Q When Integrity Sheetmetal changed its name,
	22	was it still a Local 295 shop at that point?
C.	23	A No.
	24	Q What was the difference?
	25	A It changed over to 28. There were 2 guys

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1	jgjw 3	Jonas-cross 2051
2	A	Right.
3	Q	Where is Cooperstown located?
4	A	In Oneonta.
5	Q	Outside New York City?
6	A	Yes.
7	Q	And there came a time when you say some men
8	appeared or	n a job.
9	A	Yes.
10	Q	And did you know those men?
11	A	No.
12	· Q	Do you know their names?
13	A	No.
14	Q	Do you know their do you know what they
15	looked like	e?
16	A	Yes.
17	. Q	You say that somebody showed you a card.
18	Do you rec	all what the card looked like?
19	A	It was a Local 28 book, union book.
20	Q .	It was a 28 book?
21	A	Yes.
22	Q	And you recall it was a book.
23	A	Yes. You know, the union book, a card in a
24	plastic th	ing.
25	Q	Do you recall the names of the men withdraw

jgjw 6

Jonas-cross

Q The men weren't there when the supervisor was speaking to you; they weren't on the veranda, were they?

A No.

MR. BOGEN: At this point, your Honor, I move to strike the conversation had between the supervisor and the witness because certainly that's not binding, as to what the witness or what conversation took place, on Local 28. There hasn't been any identification whatsoever that any official, any person, et cetera. There was some kind of reference to a book.

As a matter of fact there is a receipt involved. But assuming there is a book involved, this in no way would be binding on Local 28, your Honor.

THE COURT: Denied. I won't strike it.

I think it is common parlance in the trade unions that your card is called a book.

MR. BOGEN: I don't quarrel with that at this point. I indicated there was no connection or identification of who these people were.

THE COURT: They showed him a book from 28, he said. He can read English.

Now, when you were told to leave the job,
Mr. Jonas, did you complain or go to Local 295?

A Yes.

Q Do you know to whom you spoke?

I dont know the person's name.

Q Do you know whether it was a clerk of an officer, who it was?

A The fellow who was working there, it was an office, he had told us they were not giving our any applications.

Q They were not giving out?

A That's what he told us. There was nothing else they could do.

Q After visiting that office, as you described it, did you go in to 295 to tell them what had happened?

A Yes

O Pardon?

A Yes.

Q And you say Mr. Valenti got you a job at Fast Face.

A Yes.

Q Then you say you went after a period of time to work for AAA.

A Right.

Q And there came a time when the boss -- who spoke to you about terminating you at triple A or discharging

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1	jgjw 9 Jonas-cross
2	or laying you off at triple A.
3	THE COURT: I think you got your sequence
4	mixed up, Mr. Bogen.
5	MR. BOGEN: Excuse me.
6	THE COURT: He is still working for triple
7	A
8	MR. BOGEN: I withdraw that. Let me step
9	back.
10	Q Integrity, you say, moved over to new
11	quarters and there was a change of name to True Vent?
12	A Right.
13	Q And there came a time when the boss or super-
14	visor told you you were no longer going to work there.
15	A Right.
16	Q When he told you this, were any of the
17	officials or anybody from Local 28 there when he told you
18	this?
19	A No. That was in his office.
20	MR. BOGEN: At this time, your Honor, I ask
21	that that testimony be stricken with respect to any
22	conversations had between this witness and the super-
23	visor on the basis that it is certainly not binding on 28
- 24	and clearly hearsay.
25	THE COURT: I'll deny it.

1	jgjw 10 Jonas-cross
2	Q Now, when the supervisor informed you you
3	were no longer going to continue to work for True Vent,
4	did you go and complain about this to Mr. Valenti?
5	A The guy paid us off. That's the time I went
6	down to the union before I go to Valenti /
7	Q Did you go to Mr. Valenti?
8	A Yes.
9	Q Afterwards? And did you complain about
10	what happened?
11	A Yes.
12	Q What did he do about it?
13	A He told us they are having a lot of problems
14	with Local 28.
15	Q Yes?
16	A What he can do for me is try and get a job
17	for me until I can straight out.
18	Q Did he do anything else besides get you this
19	job? I think you said he got you a job at Fast Pace.
20	A Yes.
21	Q And did he get you the job at triple A also?
22	A Yes, sir.
-23-	MR. BOGEN: I have no further questions,
24	your Honor.
25	THE COURT: All right.

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A It can be done in one of two ways. You can take the actual absolutes or you can take the percentages given in Table 4A, which indicates that of your total

A No. I specifically said non-whites. Most persons

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with Spanish surnames are white. There are a certain small proportion that are non-whites.

O That would be included here with non-whites?

A In both numbers. About five to ten percent of Puerto Ricans are classified by the census bureau as negro.

Q But there are Spanish surnamed people not included in the minority classification, is that correct?

A That is correct.

Q Does the minority, when it says minority employment, does that include women?

A No, separate figures are given for women.

Q Looking at page 28, I see there is a figure for female employment, that is one set of two columns and minority employment?

A Exactly.

Q Is the minority employment all male?

A No. The purpose of this table was to give data for affirmative action programs. Affirmative action programs had to ask two questions, the percentage of females and the percentages of minorities. The definition followed here on minorities I suspect is the one given by the affirmative action. I didn't do this myself.

Q I have to confine my questions to your knowledge.
To your knowledge does the minority employment

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.	arcg 22 Berman-cross/redirect 2188
1	category here include females as well as males?
1	A Yes.
1	Q To your knowledge, Mr. Berman, does this include
5	all people or is it broken out by any kind of educational
8	level?
1	A There is no breakout by educational level.
3	MR. ADAMS: No further questions.
9	THE WITNESS: Data by educational level, however,
)	are available in the census. The census book is this fat
1	and I didn't want to bring it.
2	THE COURT: Mr. Bogen?
3	REDIRECT EXAMINATION
4	BY MR. BOGEN:
5	Q Mr. Berman, in response to something Mr. Tuminaro
6	asked you a little while ago regarding the state of unemployed
7	sheetmetal workers, et cetera, you stated that certain doc-
8	uments or statistics were on your desk now, is that correct?
9	A I said maybe. I don't know.
0	Q You also stated that you thought that you were
1	going to testify in this action as to your day, that you
2	were surposed to come tomorrow?
23	A That iscorrect.
24	Q Who informed you you were to come tomorrow?
25	A You did. You didn't inform me but you informed

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not.

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THE COURT: I will let him finish his question.

MR. BOGEN: I haven't finished my question so I

don't know how Ms. Gross would know whether it is proper or

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There was testimony by the witness to the effect 0 that several men visited the job site up there and had some local 28 book I believe he said. Do you know anything about that incident?

A Not at all.

THE COURT: Can I ask Mr. Stack something?

Let us say Triangle in the city here got a job in Cooperstown. Would they carry their employees up there to do the job?

THE WITNESS: Under the constitution that we have the employer can, if he wishes or so wishes, bring two men of the local union up there.

THE COURT: That is all?

THE WITNESS: Thatis all under the constitution unless the local union employment is so well that the local union in that area cannot supply the manpower, Triangle can bring additional manpower.

MR. BOGEN: At this time in light of the question there is specific reference your Honor in the collective bargaining agreement as to the requirement that Mr. Stack has just pointed out as to the requirement of the two men.

THE COURT: All right.

Mr. Stack, during the time you were business agent ime I believe you were a member of the executive and the

to the New York Plan?

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MS. GROSS: Objection, your Honor. There has been no foundation, no where, when, how.

THE COURT: I think the Court can take judicial as to when the New York Plan went in and what his position was as of that time because the testimony has already been in the record. We know he is a business agent during this period of time. If we are going to do that all of your examination of him and with regard to the petition for contempt will go down the drain and we will have Mr. Bogen here another three weeks.

MS. GROSS: I apologize to the Court.

MR. BOGEN: As I understand it a good portion of the testimony by Mr. Stack on direct examination as a witness for the plaintiff and my cross is already a matter of record. It was covered and if my questions are eliptical it is on the basis that they were in fact raised and if there is no basis I would be happy to go back and lay a foundation. But I assume the foundation is already in the record.

THE COURT: I wish you wouldn't be so happy about going back and laying a foundation. Ask the question.

What was the position of Local 28 with respect to the New York Plan?

The concept of trainees was not a viable thing in

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the time that you were business agent and now president with respect to the organizing of non-union shops?

MR. ADAMS: If he knows. We had quite a lot of

MR. ADAMS: If he knows. We had quite a lot of testimony from Mr. Stack that he didn't know and I want to establish a foundation that he would know. I think Mr. Bogen should lay a foundation.

THE COURT: I will let him answer the question.

Q What is the policy of Local 28 if any during the time you were business agent and now that you are president, with regard to the organizing of non-union shops?

A fo organize as to standard and conditions and to seek employment for members of the local union.

Q What policy is there, if any, with respect to the employees of non-union shops that are organized?

A All are welcome intomembership providing the employer will certify as to their ability and the need of that employee.

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Q What areas were involve	0	What	areas	were	invo	Lved	1?
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A I believe the west side of Manhattan and the Brooklyn area at the time, which was the agents Gus Pasquinnucci and I believe Sam Melnick in Brooklyn.

Q Do you know what job sites were involved?

A I believe as reported P.S. 308, Boystown -Boys High School and the Fashion Institute.

MS. GROSS: Was that a change from Boystown to Boys High?

THE WITNESS: Yes.

Q What was the report that was given at the executive board meeting?

A There was a disturbance in the job in that the people were rioting through the jobs, stopping the men of Local 28 in performing their work and physically threatening them, sitting on their tool boxes, knocking them off ladders, dismantling scaffolding and just in general stopping them from working.

Q After the report was made what action if any was taken by the executive board?

A We at the executive board discussed it because I was concerned at the time not to have any member of the local union injured at any of these job sites and the action the executive board took was to try and prevent any such thing

because in the course of events people are human, they get hot-headed and we try to keep our people contained. We did design a resolution to present to the members of the local union.

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Mr. BOGEN: May I have this marked.

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(Defendant's Exhibit Q marked for identification.)

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Q E snow you Defendant's Exhibit Q for identification. Mr. Stack, and ask you if you can identify that paper?

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A Yes.

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What is that paper, sir?

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A This is the resolution adopted by the executive

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Q Was that resolution adopted?

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A Yes.

board in March 1974.

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MR. BOGEN: At this time I offer Defendant's

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Exhibit 0 for identification.

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MS. GROSS: I don't like to clutter the record

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with these objections but this purports to be something

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which is part of something else. It contains the notation

and I understand those are minutes that are coming in.

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THE COURT: Did you see the minutes?

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MS. GROSS: Not really. This is one we have not

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seen.

THE COURT: I am sure Mr. Corsi or Mr. Adams or

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someone in their office has seen the original book.

MR. ADAMS: Yes.

MS. GROSS: This was part of the meeting?

THE COURT: That is part of the minutes.

MR. ADAMS: No objection.

MS. GROSS: No objection.

THE COURT: All right, it will be received.

(Defendant's Exhibit Q received in evidence.)

Q Mr. Stack, I ask you with respect to Defendant's Exhibit Q in evidence --

MR. BOGEN: May I read this into the record.

THE COURT: Yes.

(The Defendant Exhibit Q read.)

Q Mr. Stack, subsequent to the adoption of the resolution by the executive board what, if anything, -- was the resolution ultimately presented to the membership?

A Yes.

What action did the membership take?

A We adopted it.

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JGjw 1 Stack-direct

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Q And with respect to Defendant's Exhibit Q, what, if anything, happened to that or copies of that?

(Handing)

A I believe it was directed to the members of the local union at that meeting, for that purpose.

Q And was there any other direction other than to the membership at that meeting?

A I couldn't say. It could have been in the mail, in fact I think it did go in the mail, immediately after adoption.

Q And subsequent to the adoption of the resolution and the distribution of copies of Defendant's Exhibit Q, what was the action of the membership with respect to the trainees coming on jobs?

A They just refused to work with them. That's the only, I know of.

Q Pardon?

A They just refused to work with them.

Q At that time?

A The trainees -- the members of Local 28 refused to work with them trainees.

Q Did they remain on the job?

A Yes, they did.

Q Now, since the time you became a business

1	jgjw 26 Stack-cross
2	the trainee concept in the New York program, the New
3	York Plan, was not a vehicle for training, is that
4	correct?
5	A That's right.
6	Q What is a good vehicle to training?
7	A The apprentice program.
8	Q The Local 28 Apprentice Program.
9	A Yes.
10	Q But did Local 28 ever suggest that the
11	trainees from the New York Plan be put into the Local
12	28 program?
13	A Not to my knowledge.
14	Ω Did Local 28 suggest that a trainee could
15	be trained in their program and then they could become
16	a Local 28 journeyman?
17	A Not to my knowledge.
18	Q Now, Mr. Stack, you testified with regard
19	to the policy of organizing shops in Local 28. I believe
20	you said, and correct me if I am wrong, that the policy
21	was to increase the work opportunities of Local 28
22	members, is that correct?
2 1	A Yes.
24	Q And if you organized a shop
25	MR. BOGEN: O bjection, your Honor. That is

jgjw 27 Stack-cross not the testimony. That is part

not the testimony. That is part of the testimony. There were two distinct statements in response to that question.

I think in fairness to the witness that ought to be pointed out or the question ought to include that, not one part and then drop it.

THE COURT: Maybe he is going to drop the other shoe. Why don't we wait and see.

MR. BOGEN: From the first few words of the next question it looks like he was leaving shoes alone and going on to something else.

THE COURT: All right.

MR. ADAMS: I think I am entitled to ask him what the aspects were and I already asked him to correct me if I am wrong, that the policy was directed to increasing the work opportunities of Local 22.

MR. BOGEN: If your Honor please, this is directed at question as to what the witness testified to. I don't want to repeat the testimony now, for obvious reasons.

The testimony indicated there were two reasons for this purpose.

Mr. Adams then says is this the reason, and he gives one. I would object to the question and ask that the answer be stricken, that that is not the correct

who is doing the organizing as to the man's ability and

Stack-direct

as to how long he is going to employ that man, not to use it as a vehicle to get in the back door of the

And Local 28 has -- I'm sorry.

And I have to insist when I organize that man, because that man does become a member of Local 28 and he does deserve the protection of my office, if I am the business agent or business manager, to be protected, and I have to find out from that employer whether he is going to be employed, that man is going to be employed, for any duration of time, not that is he going to employ him for a week and then leave him on the street and destroy the man economically.

I take it that the certification is done by

That's correct.

0 And Local 28 doesn't have anything to do with that.

- That's right.
- You don't ask him any questions? Q
- I ask him a few questions, yes.
- Do you ask the employee any questions? Q
- Yes.

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What is the purpose of asking him questions? 0

1	jgjw 30 Stack-cross 2295
2	To see if he has the ability that the employer
3	is certifying to.
4	Q So then you don't take the employer's
5	word completely, do you?
6	MR. BOGEN: Objection.
7	THE COURT: What is the objection?
8	MR. BOGEN: It is argumentive. The witness
9	has testified as to what the procedure is in terms of
0	what the certification means and what the local does to
1	confirm the certification.
2	THE COURT: I think we have only gotten half
3	of it. I am going to let him answer.
4	Q Then you don't count entirely on what the
15	employer says before you decide whether to take a member
16	of a non-union shop into 28 membership?
17	A I ask the member
18	Q The answer is yes or no. My question calls
19	for a yes or no answer, I think. You don't count entirely
20	on what the employer says.
21	A I do count entirely on what the employer
22	says. But I still have the right to ask that man if he
23	has the ability to continue on as a sheetmetal worker.
24	Q I don't question your right, Mr. Stack.
25	What is the purpose?

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	A	The 1	purpose i	s tha	t I do	on't wa	ant to	tak	e a
man	into	members	nip that	1'11	end up	where	e he d	an't	
pro	tect h	imself	or conduc	t him	self e	econom	ically	, in	the
she	etmeta	l indus	try.						

Q Is that the only time where a non-union member in a shop that is to be organized is questioned by Local 28?

A Yes.

Q How are work opportunities increased for members of Local 28 by organizing a shop?

A It sometimes allows the non-union contractor to enter into the union field, and he does start to pick up union work, or union contracting work.

Q But this would increase opportunities for the present members of Local 28, is that right?

A It is not necessarily so.

Q I mean, Local 28 isn't really interested in the employment or unemployment of people not in Local 28, are they?

A We are interested in the employment of everybody. We are interested in economics. We have to be. We have to be concerned with it.

Q But your primary concern is the employment of members of Local 28, you as an officer of Local 28.

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A My primary concern is for the members of Local 28, yes. They pay me.

O Mr. Stack, what area were you covering as a business agent in March of 1974?

A Queens.

Q Were any of the areas that we discussed in your direct testimony with Mr. Bogen, where trainees were interviewed, were any of them in Queens?

A Not to my knowledge.

Q Mr. Stake, if the membership of Local 28 is kept down -- by that I mean numbers -- the work opportunities for members of Local 28 increase; is that not a fair statement?

A Yes, it is a fair statement.

Q And when the demand for work is high and the membership is at a level, a steady level, Local 28 has more bargaining power at the collective bargaining agreement, is that right?

A Yes.

Q And in 1969 would you agree that the construction industry was operating at a high level?

A Yes.

Q And in 1969 the employers were by that time occasionally looking for more men to do sheetmetal work,

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is that right?

Yes.

And there were some permits being granted?

I couldn't say that for a fact. I believe A there was, but I couldn't say it for a fact.

And there was overtime being worked by 28's Q members?

That could be.

Q And the collective bargaining agreement was in June of 1969, or the collective bargaining agreement ran out in June of 1969, is that right?

Yes.

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I don't quite get the thrust of your question.

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I didn't say public housing, I said housing.

He did city housing, private and so on and so A forth. He was very predominate in that field.

Multiple family housing?

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tioned upon the artification by the employer as to their ability and qualification.

MR. BOGEN: And need, your Honor.

THE COURT: And need.

MR. ADAMS: Since Mr. Bogen referred to Mr. Carlough's deposition, I refer to Mr. O'Reilly's testimony.

THE COURT: All right.

MR. TUMINARO: I withdraw that.

Q Mr. Stack, you testified that most of the work opportunities are inquiries by men through contacts with various employers, is that your testimony?

A Yes.

Q If a man who has sheetmetal work experience contacts an employer who ascertained his competence and was willing to hire him, would this be sufficient for this person to get employment if he is not a member of Local 28?

MR. BOGEN: Objection, your Honor. That is a conclusion with respect to what the employer is going to do or not do. The contract is in evidence. Tow can Mr. Stack at this point indicate the operation of the employer's mind.

MR. TUMINARO: We had testimony just now on direct in relation to people going to employers, the relationship of the union after an employer has evidenced some willingness to hire a man or has satisfied himself, the employer,

SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE

the question of black or white with respect to trainees

was not a factor regarding the objection or opposition of

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Q What if anything does a journeyman do on his own to obtain employment?

A Nowadays he has the job list which lists every job like for a million dollars or more and a lot of men take the list that has the job for the five boroughs and they make a tour visiting the shop and the shop list seeing if he can make a contact to solicit work.

O And during your period as an official have there been occasions when you received phone calls with respect to jobs or employer's hiring?

A No, not seeking men from the office of the union, just to advise us that they were looking for certainmen in jobs and telling any of the men that they check with the company.

Q During the past year, Mr. O'Reilly, have you received any phone calls with respect to employment or requests for people?

A No, the last two years since we went into the eavy unemployment, very little if any calls at all.

Ω Prior to that time if you should receive such a call how would you handle it?

A As an official we usually tell the day room that

Buensod-Stacey or General or somebody is starting a job and

check with the owner or the boss or superintendent on such and

1 arcq 12 O'Reilly-direct 2 such a job. 3 During your previous testimony, Mr. O'Reilly, you stated in response to questions on direct or cross during the period of 1969 through 1972, local 28 officials sought addi-5 6 tional men from sister locals to meet some of the manpower requests of the employers. Do you remember that testimony? 8 Yes. 9 Did you or to your knowledge did any of the officials of Local 28 call or request manpower from Local 400? 10 11 MR. ADAMS: This question was asked and answered 12 on Mr. O'Reilly's first appearance. 13 THE COURT: I will let him answer this one, but I 14 think it has been asked. 15 MR. BOGEN: On my direct case it hasn't been raised. 16 Will you answer the question, please, did you? 0 17 No, we had no contact. 18 Q Why is that, Mr. O'Reilly? 19 We usually knew the local that had heavy unemploy-20 ment because if we were busy they are calling us. We only sought men from locals that had heavy unemployment and to our 21 22 knowledge that local had full employment, always looking for men, never short of manbower, and never had an unemployment 23 problem to our knowledge. 25 In addition do you know the status of Local 400 with

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THE COURT: I think you ought to let me draw the necessary inferences, Mr. Bogen, from the fact that you put the of these exhibits in.

I think there is a sufficient foundation.

MR. BOGEN: I certainly have confidence in his Honor at that point.

THE COURT: I'll sustain the objection.

I believe you told us, Mr. O'Reilly, that -withdrawn.

Do the number of employers set forth in Defendant's Exhibit AJ represent all the employers for whom Local 28 journeymen work?

No, not all of them.

What employers or which employers do these represent?

At least the major, sixty percent of our employers, sixty to seventy percent.

Was there any reason that these were selected rather than other employers were selected?

These companies do the major work, not the major work but they are involved in most of the major construction in New York City. Major means a half million dollar construction job or less -- or more, rather, Sorry.

THE WITNESS: I am responding here in terms of the form of the criterion rather than the specific ingredients or elements or contents thereof and I was referring to the fact that the trade information test is a paper and pencil test, as its title indicates, of information rather than a sample of critical work behaviors.

Actually, the Stevens Institute report itself,

Exhibit W, on the third page, referred to this, and I am quoting

now, and it says there, "The trade information test was not

used as a primary criterion because of uncertainty about its

value as a work performance predictor."

am concurring, and I would also agree, therefore, that any validation evidence which uses this trade information test as a criterion should be, in my judgment, discounted.

Now, as to the other criterion, the project total, it also, in my judgment, is of very dubious authenticity as a measure of job performance.

Q Why is that, Doctor?

A Well, first of all, it is not a measure of actual job performance. It itself is a test.

MR. ROTHBERG: Objection. How does the witness know that it is not a measure of actual job performance? There is still no foundation to this whole line of questioning.

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careful job analysis is the phrase used. And what I have read and heard in the way of testimony and documentation pertaining to the case --

Q Dr. Katzell, let me interrupt there. Were you present at the time Dr. Gottesman testified on Thursday last?

A Yes.

Q Please continue.

three sources of -- three bases on which the hands on test was devised. One was the very brief description of the job furnished in the dictionary of occupation titles, which I believe is in evidence as Exhibit R. Another is the views of staff members associated with the Apprenticeship School. And the third that was mentioned were general observations of the work behavior of the sheetmetal workers on the part of Dr. Gottesman.

In my judgment, these activities or these bases fall considerably short of what would be regarded as a professionally conducted, careful job analysis. Just because a person is almost an expert in a particular trade or occupation does not mean that he has the knowledge and ability to identify the critical skills and abilities that are entailed in that trade. That is a task which professionals in the field are supposed to perform if it is to be authentic.

But there is another reason why I would make a

to establish criterion-related validity.

Q Do you have another reason upon which you base your opinion?

A Oh, yes. I have several others.

second point — is not predicted very accurately by the aptitude test battery. This evidence is attested to in Exhibit X, where it is reported that the correlation between the aptitude test battery and the criterion was .25.

Now. it was stated that that correlation of .25 is highly significant and at a level of significance that is beyond one in a hundred.

rechecked that level of significance and it is not that extreme, it is not that significant. The level of significance is perhaps about half that, that is, about two and a half or three in a hundred.

I am not saying that that is not statistically significant. I am simply saying it is not quite as strong as the testimony on Thursday and the statement on Exhibit X would indicate.

However, quite apart from statistical significance, there is the question of how closely does a person's aptitude test scores approximate his performance on some subsequent

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THE COURT: Sure.

Dr. Katzell, you were at the point of stating what the table that you referred to showed.

Yes. The table indicates what improvement in accuracy or what percentage in reduction of errors of prediction you get if you use a test having a correlation of .25 with the criterion. The relevance of the .25 is that it is the figure in Table X showing the correlation of the aggregate set of five tests against the project total criterion.

According to this table, when you use a correlation of .25, you reduce the errors of prediction by 3.2 percent, and I cite this as an example of the fact that to the statistician a .25 correlation is at best a very weak depiction of relationship between the tests on the one hand what you are trying to predict by means of the test on the other.

Even though it may be a statistical significance in the sense that the -- it didn't just occur at random, it is weak nonetheless.

Further to express that notion, I found it useful to translate that coefficient, .25, which is an abstract number, into a graph or chart that actually portrays the degree of relationship involved. I would have liked to have used, in preparing such a chart, the actual figures reported in Table X. However, none of the exhibits with which I was supplied had the 808

people the evidence again in Exhibit W is that they did not score lower on the project total, significantly lower.

the chart is that they would tend to be at the left-hand side of the chart and therefore tend not to be chosen since the choices would be made from the right-hand side, where the highest scores are, running to the left-hand end, where the lower scores are. But since their project total wasn't any lower, they would tend to be excluded more often.

Q Doctor, I want to go back one step, if I may.

You mentioned that according to the chart in

Professor Gilford's book that the accuracies of choice

would be improved by 3.2 percent.

Is that considered to be a useful or helpful degree of improvement?

A I think the majority of professional opinion, certainly it is my own, would be that it is not a very useful level of improvement.

Q Doctor, I believe you had gotten through you first two reasons.

A Yes.

Do you have any other reasons upon which you based your initial opinion with regard to the evidence of.

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following, and I'll quote an extract from that.

MR. ROTHBERG: Is that book in evidence?

MR. ADAMS: Your Honor, that book is referred to in the EEOC quidelines. We can put the whole book in evidence. In fact, I think that might be a good idea.

> THE COURT: Yes.

THE WITNESS: I think you have it already. This is my copy.

MR. ADAMS: I'm sorry.

THE WITNESS: I loaned you another copy at an earlier time.

MR. ADAMS: I offer it now.

(Plaintiff's Exhibit 136 was received

in evidence)

MR. ROTHBERG: No objection.

MR. BOGEN: No objection.

THE COURT: All right.

Doctor, I hand you what has been marked as 136 in evidence. I believe you stated that there was El0 in the standard.

Yes. Standard El0 in this guide has to do with test batteries, and specifically it says:

"When the weighting of tests is based on '

one sample, the manual should report validity coefficients based on data obtained from one or more independent cross-validation samples. Validity statements should not be based on the original sample."

And this guideline is marked "Essential."

The procedures followed here varied in terms of how critical the APA feels that these various principles are. This principle they regard as Essential.

Q Doctor --

A Excuse me. There are some subsidiary principles.

Let me again expand on the point.

"If the user recommends certain weights for compaining scores on a test, the statement of the validity of the composite should be based on a cross-validation sample."

And that again is essential, and what we saw represented in Exhibit X did present a composite with certain assigned weights, equal weights, as they are indicated there, and again no evidence of the validity on a cross-validation sample. This is also marked Essential.

Further, there is a commend provided in conjunction with those principles, which again I quote:

"Cross-validation is particularly necessary
when the number of predicters entering the study is greater

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than four or five and when the sample size is less than 200."

And of course those conditions apply to the validation evidence presented us by the defendants.

Q Doctor --

other comment, Mr. Adams, while I am on this point. And I might also underscore as a comment here, "Cross-validation is also generally regarded as particularly critical when the level of validity is marginal," which was the case here. That .25 validity that we have been dealing with is a margine one. It is not a strong one. It is marginal. Which makes it technically crucial that there be a cross-validation, because if in another sample the validity dropped a little bit, it could make the whole thing not only practically insignificant but statistically insignificantly.

For instance, with 78 subjects in a sample, a validity coefficient of .21, that is, if the validity were to drop from .25 to .21 in another sample, that .21 would no longer be statistically significant by the accepted level of confidence that we use.

So I cite that to show that what we are dealing with here in that .25 validity is very marginal

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and makes it particular important that it be cross-validated, which was not done here.

Doctor, I believe now you stated that there are three reasons for your initial opinion. Is there another reason?

Yes. A fourth reason has to do with the fact that the credibility of the validity evidence presented is eroded because it employed a particular set of five tests which was not duplicated in any of the other seven testing sessions that have been conducted since October 1967. That is, in each of the other instances at least some of the tests that are represented in the 1969 battery on which these data are based, at least some of the tests were replaced by others, which it was assumed are interchangable.

That assumption of interchangability, Mr. Adams, is very, very shakey. For example, I'll go back again and cite the EEOC guidelines in this regard, where, in Paragraph 1607.8 they say, under a heading "Assumption of Validity":

"Under no circumstances will the general reputation of a test be accepted in lieu of evidence of validity. Specifically rules out are assumptions of validity based on test names or descriptive titles."

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In other words, this rule, Mr. Adams, cautions against constituting tests just because their names are the same or their descriptions are the same. It is not accepted professional practice and EEOC proscribes it.

Now, the APA standards likewise caution against that practice. On page 52, Standard F4 of the APA standards on education and psychological tests says:

"If two or more forms of a test are published for use with the same examinees, information on means, variances and characteristics of items in the form should be reported in the manual along with the coefficients of correlation among their scores. If necessary evidence is not provided, the test manual should warn the reader against assuming equivalences of scores."

In other words, two tests, even if they are by the same publisher and they are regarded as alternate forms, should not be assumed to be equivalent unless empirical evidence is provided of their high correlation with one another.

Now, in Exhibit W, on page 11, there is an example of the fact that such high correlation may not in fact exist among the very test that the defendants used in the various battiers.

On page 11 of Exhibit W, the third and fourth

jgjw 11 Katzell-direct line from the bottom of that page, appears a figure. That section of the report reports the correlations between the SRT Spatial relation tests, which were used in the 1969 battery, and various other tests. Among the various other tests for which these correlations are reports are a test of spatial relations. .

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for this is .591. Now .591 represents again a very modest degree or relationship between two tests. Going back to Gilford's Table 74 that we have alluded to before, a correlation of .591 would mean that, if you predicted a person's score in one test, from his score on what was ostensibly an alternative or an equivalent, you would reduce the errors of prediction by only 20 percent as compared to if you just guessed what his test score might

So you see .591 does not really establish equivalence, and there undoubtedly are other questionable or shakey assumptions of equivalence among the other tests used in the battery.

Q Dr. Katzell, you just referred to a table in Dr. Gilford's book. Is that the same table as you referred to earlier?

A Yes, it is.

Now, doctor, do you have any other reasons upon which you based your initial opinion?

A Yes. I would like to address myself to the argument about the practical significance of the battery which was advanced on Thursday and which is the focus or Exhibit Y.

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I concur that practical significance is a matter of great importance in evaluating the validity of a selection test. In fact, the fact that it was given scant attention in Exhibit W represented in my judgment, when I read Exhibit W, a major flaw. And its reintroduction therefore in conjunction with Exhibit Y I feel was a step in the right direction.

Unfortunately, though, the logic of the approach was not correctly applied in all instances.

Let me stipulate simply two points here in that regard. One has to do with the use of the Taylor-Russel tables which were cited by Dr. Gottesman in his evidence.

Those tables, as he explained, depict what degree of improvement might be expected in selecting candidates from a pool, given a stipulated coefficient of validity, a given selection ratio and a given success ratio.

However, in Exhibit Y, and in the interpretatation, growing out of Exhibit Y, the success ratio employed had nothing to do with the validity coefficient that was obtained in the study. Validity, you will recall, was computed here or determined here by comparing aptitude scores with the project total.

By contrast, the success ratio was interpreted in Dr. Gottesman's testimony in terms of the percentage of individuals who would have been selected as apprentices, who would, and I will quote from page 2342, who would, "become successful sheetmetal journeymen."

Katzell-direct

Q Dr. Katzell, you quoted page 2342; is that a reference to the transcript in this case, that I provided you?

A The transcript, yes. Again, to repeat the point, the validity coefficient is based on the criterion of the job proficiency test. The interpretation was that the -- of the success ratio was in terms of apprentices who would "become successful sheetmetal journeymen."

Now, I submit that the computations based on that assumption of no relationship, no determined relationship at least to the validity coefficients which entered into the table and therefore the whole matter remains a hypothetical exercise.

To interpret the practical significance in the way that Dr. Gottesman did would be quite misleading.

- Q Doctor, do you have any other --
- Well, I'd like to make another point, please, with respect to the interpretation of practical significance.
 - Q Please proceed.

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In effect that is, putting it in other terms, that is saying the greater the human cost of rejecting qualified applicants, the higher the validity needs to be.

Now, that consideration did not enter into what we heard about practical significance, and it seems to me to be extremely important in a case, which as I understand what is involved here, are issues of affirmative action, are present. Because what that means is when you are using a test of minimal validity, as was presented here with this.

Represented by this correlation of .25, the likelihood of rejecting a qualified, an otherwise qualified person,
is very high. I can refer back to the graph. If you begin
selecting down from the top, even if you go down this far,
which means fifty percent down the list, running from high to
low, you would still run the risk of rejecting some of the
highest according people in terms of their subsequent performance. It a job proficiencies.

back again to this EEOC principle, where the human costs of rejecting qualified applicants are high, it becomes particularly necessary to have evidence of strong, high validity, certainly higher, in my judgment, than the .25 presented to us in this prody.

Q Doctor, do you have any further reasons upon

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which you based your initial opinion?

A Well, one final point has to do with the absence of separate validation from minorities in the material represented in Exhibit X. Now, as I am sure you are familiar, is another matter which is prescribed in the EEOC regulations, in this instance 1607.5 B5.

Q Doctor, I think we can dispense with the reading.

His Honor has indicated that the regulations will be given

judicial notice.

- A All right. I think one thing I would like --
- Q Let me put a question to you.
- A Surely.
- Q Does Exhibit X contain any data or results showing evidence of validity for minority groups, such as blacks or Spanish?
 - A It does not.
- Q Now, Doctor, I would like to give you, I would like to ask you a question that would be based upon certain facts that I will present to you at this time.

persons for whom data are reported in Exhibits W, X and Y, there were forty-two additional people who had been in the same apprenticeship class and that those forty-two had graduated in less than four years, on the basis that they had

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been given advert standing by the employers and Joint
Apprenticeship Committee, because of their outstanding work;
also assume that forty-five percent of those forty-two people
not included in the validity study, and who had advanced
standing, had scored in the bottom half of the five test
battery; would these facts have any implication as to the
validity of the five test battery used to select them?

- A Yes, I think they would.
- Q What implication would it have?
- A Well, it would indicate, using a different criterion of proficiency or performance, that again there was a very slight relationship at best between scores on the aptitude test battery on the one hand and performance as apprentice on the other.
- Doctor, I am going to ask you another question, and again I am going to ask you to base your answer, I am going to have to give you the facts again, and then I will ask you a question based on the facts:

Doctor, assume that the Joint Apprenticeship

Committee awarded prices on the basis of high quality or

excellence in the apprenticeship school, and excellence in

the ability to perform sheetmetal work. Assume that thirty

percent of the prices won by the apprentice class under study

here in Exhibits X, Y and W, assume that thirty percent of

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the prices won by that apprenticeship class were one by people

who scored in the bottom quarter of the five test battery.

On those facts would there be any implication as to the validity of the five test battery?

Yes. Again, the same sort of notion, that here there had still been another criterion of performance which apparently had no relation or little relation to the aptitude battery.

Now, Doctor, in your direct testimony several weeks ago you testified that in your profession tests were considered to be a useful means of selecting people for employment; is that correct?

Yes.

In your opinion, Doctor, if certain identifiable groups get poorer scores or lower scores on the selection tests and those same identifiable groups perform equally well as other groups on the job, is there a way of using selection tests to rick people for this job?

Let me see if I understand your question.

You are asking, is there a way to somehow obviate or circumvent a situation in which people who can do equally well on the average on the job may, grops that do equally well, may do equally well on the job on the average, but don't do as well as some other groups in their test performance, is

(Luncheon recess.)

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THE COURT: Wait a minute. I'm overruling the objection.

Well, for one thing, it would seem to me whatever I use as a criterion, whichever form I used it in, would involve a sampling of all those tasks that you've indicated. That would be critical, because as the EEOC guidelines indicate, a criterion must represent all of the critical tasks and activities contained in the trade.

Where did it say that?

A I read the relevant section, but I'll try to find it again.

"Whatever criteria are used" -- this is Section 1607.5, Paragraph B, Sub-paragraph 3 -- "They must represent major or critical work behaviros as revealed by careful job analysis."

If you say to me that the trade entails these various kind of activities, I am quoting the EEOC guidelines, which say whatever you use, it must represent all of those critical tasks.

That still doesn't speak to the form in which it is represented, but the coverage would have --

Q Let me ask you this question. Does practicality ever come into making up criteria for validation studies?

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A Not necessarily.

In a trade such as yours that you have described, that encompasses many different facets, where we state that somebody who graduates the apprentice program has familiarity with all of it, wouldn't you say that one reasonable and practical approach would be to have a trade information test of the type we gave?

It would be practical, certainly. But I don't think it is reasonable in a technical sense, no.

Q Reasonable in a technical sense?

A Accurate, satisfactory

Q I would like to go on to the other part of the criteria for a moment. You talked about the hands-on test. And you spoke first about the job analysis that was made.

Now, is it your testimony that that job analysis was not sufficient or is it your testimony that you don't know whether or not it was sufficient?

A The latter. I think I said that from the testimony I heard, the hands-on test was dubious, of dubious value, dubious authenticity. I didn't, you know, categorically say --

Q Let's develop that. One, you stated that from what your knowledge is, somebody looked in the dictionary of occupational titles. Two, you said there was consultation with it, I believe, with the instructors or the school.

A The staff.

Q The staff. And you say that's of a dubious nature, that kind of analysis, and you said visits to the job site and personal observation; that was the third thing you said, is that correct?

A Those are the three kinds of foundations that

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I recall having been cited --

That you based yours on?

Not that I based mine. That I understand was the basis for Steven's use of that.

That is your understanding of what was used?

My understanding.

Based upon your understanding, you are saying that is a dubious approach, is that your testimony?

If it is limited to that, yes.

Why is it dubious?

Because it does not -- there is no citation that a systematic job analysis which then related the critical, all of the critical tasks and skills to a test plan, which sought to establish the linkage between a job analysis and a set of tasks, presented in a test -- you know, I didn't hear that kind of evidence. And that is the kind of evidence which a professional in this field seeks when he's asked, is this a satisfactory criterion.

What then would have been required that wasn't there, specifically?

If I may interrupt, that is technical and I have trouble with technical understanding. Practically

what are you suggesting?

A Well, there are a number of ways in which good job analyses can be done, Mr. Rothberg. You know I could — if you are asking me to illustrate how one might go around conducting this kind of an approach?

Q One that based upon your limited knowledge of the sheetmetal trade would be practical or reasonable for the sheetmetal trade, yes.

A First of all, to take the matter of observation, I would think observation would be important, and observation not on the basis of some casual visit but on a sampling of a set of workers, where there is reason to believe that they represent the typical scope of responsibilities of the work of a sheetmetal worker. That involves defining the sample to begin with. That is, what is the work of sheetmetal, what kinds of jobs do they do, what kind of settings do they do them in.

We already heard evidence this morning, that I heard, that what the City requires of sheetmetal workers and what apprently the JAC is trying to prepare them for are quite different things. One is trying to prepare somebody who is I gather a sort of generalist and the other is trying to prepare somebody who is more likely to specialize in certain things, particularly

air conditioning.

Q But --

A Excuse me, I'm responding to your question.

That would mean that in order to establish by observation what these people would do, you'd first start out and say what kinds of jobs do sheetmetal workers do? Are there variations, if so, let's be sure that we observe a number of people doing each of these sub-specialties or each of these forms of work.

Then you go in and make observations and you don't just sort of look at them, you know, I'm trying to explain what you would do --

Q May I interrupt --

A -- would be some kind of systematic samples of what they do. There is ratio sampling techniques, a variety of ways of doing it.

Q Who would have to make these observations?

A A trained analyst, somebody who knows what jobs, how you analyze jobs, that is all I can say. There are people trained to do this kind of thing. It's a field, it's a profession, there are books about it. There are courses in universities about it. It's a specialty.

Q And you are saying that observations made by teachers in the trade, observations made by contractors

performing the trade for in some places a number of years, observations made by trustees who oversee the supervision of the training of apprentices, in terms of listing what jobs are done, is not sufficient for this purpose, is that your testimony?

A Not sufficient, that is correct. Not sufficient.

MR. ADAMS: Mr. Rothberg very carefully interrupted an answer which was being given by Dr. Katzell. I think Dr. Katzell ought to have an opportunity to respond more fully to the question of what is a job analysis.

MR. ROTHBERG: He seems to be breaking it down in separate parts.

MR. ADAMS: You broke it down. He was prepared to give you an answer.

THE COURT: I will take the answers and questions as they have been given.

Q Then what happens after this job analysis is made?

MS. GROSS: Objection, your Honor. Dr.

Katzell said one way of doing a job analysis or one component
is observation. He did not say that was the job analysis.

THE COURT: All right, it's one component.

That what.

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Q What is the next component?.

A Is that what your question is.

Q Yes.

A What are some of the other procedures that could be used? Well, there is certainly the procedure of interviewing and talking to people who are doing this work, and supervisors and instructors who are doing it as well. That is relevant information that enters into it.

Again, though, this depends on having a systematic sampling of people in these sorts of things, because again, the exposure, what kind of sheetmetal work are you talking about, and in what context do people of experience with it is relevant.

So the two chief ingredients would be or the three chief ingredients, rather, would be observation, interviews with a sample of supervisors, instructors, people who know about the profession through experience with it, and third, representatives of people who are currently in the occupation and doing the kind of work in question.

But again, I want to draw a distinction between using these people as sources of information, if you are a professional job analyst.

Q Which people?

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A These interviewees, the supervisors, the instructors, the people themselves, using them as sources of information versus asking them what would you put in to a criterion in order for it to be suitable for this job. It is a different thing.

Q Let me ask you this question -- withdrawn.

In order for a validation study to be proper under whatever definition you want to ascribe to it, must a criterion mural the elemtns of work?

A I will quote the EEOC again: "Must represent major or critical work behaviors, as revealed by careful job analysis."

I subscribe to that statement.

Q Well, does your analysis of that statement mean it has to describe all?

A Major or critical is not the same as all.

Q Doctor, using the same guidelines, I refer you to 1607.4, Subdivision C --

A Right.

Where it says that "The empirical data demonstrating the test is predictive of or significantly correlative with important elements of work behavior," so it is not all, it is just important elements.

MS. GROSS: Objection. Mr. Rothberg is now

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confusing the use of tests with the use of criterion for validation, and I think that he's quoting from a portion which talks about the test as opposed to the portion that the doctor was talking about earlier about validation.

THE WITNESS: In any event --

- Q Is that correct; is she correct?
- A Well, in any event, you know, I think their use of the word important in that paragraph and their use of the word major or critical in the other paragraph that I read are substantially equivalent in intent.
- Q What I'm confused about doctor and hopefully you can clarify is why, in order to have in our context of validation study, a good validation study, that the important elements of work behavior, and I'm quoting now from the guidelines, couldn't be determined by those people directly involved in the trade. I'm not sure why that grou, namely the instructors, the coordinators, the contractors, the employees, couldn't determine and set forth what important elements are required for the job.

MR. ADAMS: I think we have had an answer to that already.

MR. ROTHBERG: No, Dr. Katzell stated --

THE COURT: Wait a minute.

MR. ROTHBERG: I'm sorry.

THE COURT: I will let him answer it.

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THE COURT: I didn't, I don't think I said they couldn't. I said, I think I said, or I intended to say that you cannot rely on their description of a criterion as necessarily representing all of these things.

You see, one of the reasons why you couldn't rely on that, Mr. Rothberg, and this will be responsive to what you are trying to get at, one of the reasons you cannot rely on it is because unless people are guided in their thinking by experienced job analysts, they will frequently not, on their own, think of the things that are likely to be critical in this.

Let me illustrate to you. I have done ajob analyses. I have never done sheetmetal work, but I have done job analyses, and I know that when you ask somebody to describe the job to me, or tell me what you do, or tell me what people in this job do, you get one answer. That is not what job analysts stop at. They prove beyond that, because in their experience they have discovered you don't get the full story that way.

With most people in an occupation are not given to analyzing intellectually mapping out all of the critical tasks that they perform, so that you have to get at it in other ways.

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You asked for example, when you were learning this task, what gave you the most difficulty, what was some of the things that gave you a lot of problems.

Now that elicits new data beyond those that they responded to when you ask them, tell me about the work that is done here. What I am suggesting is that just knowing an occupation is not a sufficient basis for a person being able to stipulate those critical, important tasks, and activities that are entailed.

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Q Dr. Katzell, I am trying to bridge the bag between your theoretical analysis and the Local 28 Joint Apprenticeship Committee approach to that.

A Yes.

prepared and listed the important elements was he coordinator of training and was also head of an examining board that previously she had prepared examinations setting forth the requirements for the sheetmetal trade, if I told you that opinions were not obtained from one person but from many different people and many different approaches, if I further tell you that Stevens Institute's representative representative visited job sites and also in fact visited the school and in fact visited shops of contractors in terms of its analyses, practically wouldn't that be a fair and reasonable way to obtain an understanding of what some of the important elements of work behavior are for the trade? Practically, no.

A Well, I take cognizance of your word "some" of the critical or important --

Q The most significant ones.

A Well, I wouldn't go along with the "most significant." But I think some.

Q I think we are making a distinction. We are

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MR. ADAMS: I object to the form of that question. As to whether a single document meets guideline requirements, I don't think there has been any foundation laid for that question and I'm not sure it can be answered.

THE COURT: I am not sure it can be answered, but I'll let him answer it if he can answer it.

in the way you put it, Mr. Rothberg. Again, I am not trying to be evasive, but the statements to which you refer are not guidelines. They are simply reminders that in addition to statistical significance the magnitude of the correlation must be sufficiently large as to be practically useful. And it suggests some of the consideration that enter into it. It does not provide guidelines to be met or not to be met in order to comply.

Q Well, does Table Y measure what the guidelines talk about, that it has practical significance, whether or not?

A It addresses itself to that kind of issue, yes.

Q Okay.

Assuming any one of those success ratio levels, would you say that it has practical significance?

MS. GROSS: Your Honor, in Dr. Gottesman's

testimony he made clear that Table Y measured success in terms of successful journeymen, and Dr. Katzell is now speaking totally other than that and has been speaking about something totally other than that.

In other words, he is talking about success as measured by the validation hands-on sample.

So I think the issue that Mr. Adams attempted to raise before is drawn even more strongly here, in terms of this particular document and what it purports to use as a measure of success.

MR. ROTHBERG: I don't agree with that at all.

THE COURT: Why not?

MR. ROTHBERG: First of all, we can lookat their own exhibit, which shows the measure of success of these people.

MS. GROSS: Dr. Katzell did not intend and did not put that forward as showing measure of success.

He put it forward as an indication of what a .25 coefficient means and how it can be plotted out on a chart. He did not say that was a measure of success in any way, shape or form. It is an explanation of a .25 coefficient.

MR. ROTHBERG: In the first place, I don't agree. We have here a chart in Exhibit Y that has four

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different assumed success ratio levels, 50 percent would be successful, 60, 70 and 80. We are saying assuming any one of them. We are saying assuming any coe of them. Even if you only assume 50 as a success, which is the worst possible assumption, does this still show that our test has practical significance?

MR. ADAMS: I object.

THE COURT: I'll let him answer that.

THE WITNESS: There is another assumption you have to make.

O What is that?

A And that is the assumption about the validity coefficient. My earlier testimony pointed out that the validity coefficients reports in Exhibit X are between a battery of five tests and a criterion which consists of a hands -on test. All right?

That's the only coefficient, concrete coefficient, we are dealing with, and I'm accepting the one of .25 with the project total as being a statistically significant one based on the analysis that was performed.

Now, when you ask me to now move over to

Exhibit Y and ask the question, does Exhibit Y indicate

practical significance, I can't answer it because I don't

know what the validity is in terms of some acceptable

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What am I asking the doctor to assume --

MR. ROTHBERG: Maybe I'm not paying attention.

THE COURT: You are asking him to assume that

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the job criteria are valid. He says they are not.

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the job criteria we covered earlier. Now, as to whether or not they are valid, I don't know. Your Honor will have to decide that based upon all the evidence.

MR. ROTHBERG: No, no. His testimony about

THE COURT: I will.

MR. ROTHBERG: But if we get bogged down there, we can't move forward. I am saying we have to go to the next stepand we have to assume they are valid, otherwise we get bogged down.

He has given certain testimony in this whole area as to practical significance, and I think it is important that we just make that assumption for the moment so we get to the next step. And once again, he is an expert witness and I think I am permitted to make certain hypothetical assumptions for the purpose of getting his expert opinion in the area we are talking about, and I'm making that assumption.

I am not asking anybody to concide nor am I asking the doctor to concede, the question of criteria.

THE COURT: No. I disagree with you. I am sustaining the objection to the question.

BY MR. ROTHBERG:

So, based upon what just transpired, doctor,

MR. ADAMS: There is one letter.

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MR. ROTHBERG: Then I would want the application .

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form in evidence so anybody can look at it.

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MR. ADAMS: I don't have the application form. It

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has been destroyed.

destroyed.

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THE COURT: That is the point. They have been

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MR. ROTHBERG: So what is available?

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MR. ADAMS: My notes.

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MR. ROTHBERG: Just your notes are available?

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MR. ADAMS: I tried to make that as clear as

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possible. That is the problem I have. Otherwise I would have

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brought these records in. That is why I requested them.

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Local 28 moved its offices. Somehow my communication didn't

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get over, and I blame nobody for that. The point is the

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records have now been lost and that's what it shows.

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MR. ROTHBERG: And you are introducing it for what

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purpose?

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MR. ADAMS: I am introducing it as evidence that at least more than one, which is what Mr. O'Reilly tended to testify to, people got knocked out on the basis of character. I cannot introduce it for any other year, for the purpose of any other year or for any more than five.

MR. ROTHBERG: Whatever your Honor wants.

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THE COURT: I am going to accept it as a stipulated fact on the record.

MR. ADAMS: With that I think that really does close our rebuttal case.

THE COURT: All right.

MS. GROSS: And the City's case.

MR. TUMINARO: Yes, your Honor.

THE COURT: All right. Mr. Bogen?

MR. BOGEN: We have nothing further in our case.

We have already rested.

THE COURT: Mr. Rothberg?

MR. ROTHBERG: Nothing.

MR. BOGEN: Your Honor, at this time, on behalf of Local 28, we are prepared to make a closing statement to support our motion to dismiss.

THE COURT: All right.

MR. BOGEN: If it please your Honor, at the beginning of the trial Mr. Adams came forward and made a long statement. My recollection is that Ms. Gross in behalf of the City went forward and made a long statement. My recollection is that Mr. Tuminaro on behalf of the State joined. He was the third and fourth party defendant, if you will, and he joined the position and said that the State had a great concern and interest in the matter and they were eager to appear as

1	jgjw 5	Wilson-direct 1764
2	A	Yes. I have two fellows working for me.
3	Q	And what did they do for you?
4	A	They do the same work as I do: The duct
5	work, bathpar	. Whenever you get the job, you just do it.
6	Q	In 1950, what happened?
7	A	After 1950 I turn over the business to one of
. 8	my co-worker	and came to the United States.
9	Q	And when you first came to the United States,
10	what type of	work did you do?
11	A	Well, I couldn't get a job on my trade as
12	sheetmetal me	echanic, so I went and work into a foundry,
13	Taylor's four	ndry at Greenpoint for about six months.
14	Q	And what did you do after those six months?
15	Α	Well, I was able to get into Todd Shipyard
16	at that time.	
17	Q	And where is the Todd Shipyard?
18	A	That was Erie Basin. That's the place they
19	call it.	
20	Q	And approximately when was that, sir?
21	A	That was 1951.
22	Q	And what kind of work did you do at the Odd
23	Shipyard?	
24	A	Well, duct work for air conditioning. You work
25		When you know sheetmetal trade, you are no

stiffled in no part of it. You got to do everything.

		그 경기 가는 것이 되었다면 하는 것이 되었다.	
jgjw 3		Moss-direct 197	2
	Q	What type of schooling did you receive?	
	A	I went to tailoring school at that time	
under t	the G.	I. Bill.	
	Q ·	And what type of work were you doing at	
this ti	ime?		
	A	At that time I had a part-time job. I	
worked	in Ho	rn & Hardarts at that particular time.	
	Q	And how long did that last?	
	A	I went to school for almost two years, from	
'48 to	'50,	I think it was.	• ;
	Q	And what did you do then in approximately	
1950?			
	A	In 1950 I got a job as an elevator operator	
	Q	And how long did you work in that position?	
	A	I left there in 1952, 1952.	
	Q	And where did you go after that?	
	A	I went to the Brooklyn Navy Yard.	į
	Q	And when you were at the Brooklyn Navy Yard	ι,
what t	ype of	work were you doing?	

I was a sheetmetal worker. I was doing ventilation and duct work, heat and ventilation.

Now, when you first joined the Brooklyn Navy Yard, what position did you hold?

I had a helper's job.

1	jgjw 4	Moss-direct	1973
2	Q And how	long were you a helper?	
3	A I was a	helper from '52 to '59, I think	k it
4	was.		
5	Q And duri	ng this time, '52 through '59,	what
6	kinds of sheetmetal w	ork did you do?	
7	A Air cond	itioning ventilation, duct work	k, blower
8	pipes and all this.		
9	Q And what	specific kind of work did you	perform
10	on these various type	s of sheetmetal?	
11	A We would	fabricate it and installation	•
12	We had a shop. We wo	uld fabricate it in the shop a	nd we
13	would take it out, se	nd it out to the ships and at	certain
14	times we would instal	l it, at certain times we woul	đ
15	fabricate it.		
16	Q While yo	ou were at the Brooklyn Navy Ya	rd,
17	did you join a union?		
18	A Yes.		·
19	Q What uni	on was that?	
20	A That was	401.	
21	Q And when	approximately did you join 40	1?
22	A Between	'59 and '60, I think it was.	
23	Q And how	long were you a member of 401?	
24	A Roughly	about a year, or less.	
25	Q Now, pri	or to the time that you joined	401,

1	jgjw 7		Moss-direct	1976
2		A	That was in 1964.	
3		Q	Now, do you know, was that letter sent?	
4		A .	Yes. I mailed it.	
5		Q	And who signed that letter?	
6		A	I signed it.	
7		Q	What happened after you mailed that let	ter,
8	if any	thing?		
9		A	I didn't hear anything from the letter.	
10		Q	Did you do anything when you didn't red	eive
11	a respo	onse?		
12		A	Well, after I left later on they tra	ins-
13	ferred	me, w	hen the Navy Yard closed they transferre	ed me,
14	in 196	5 to M	aguire Air Force Base.	
15		Q	When you say "they," who is "they"?	
16		A	The government, the federal government,	, the
17	Navy Y	ard.		
18		Q	And they transferred you to Maguire?	ı
19		A	Right.	
20		Q	What happened at that point?	
21		A	After I stayed there maybe approximate	ly ·
22	about	a year	, I inquired again in Local 28 about an	applica-
23	tion f	or joi	ning.	
24		Q	When you say "inquired," how did you do	o this?
	11			

Well, I went there and they told me at that

Well, we would get a call to the shop and the

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vent work?

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A No, not this building. Previous to this I was told that Local 28 -- there was going to be like a court fight or something. This was ROTP in Brooklyn was telling me this.

- Q Was that the Former Workers Defense League?
- A No, I don't think so. It is some kind --
- Q In '65 to '70 you were working at Maguire Air Force Base, is that correct?
 - A Yes.
 - Q Were you satisfied with your work at that time?
 - A No.
- Q But you didn't contact Local 28 and you didn't contact the City for any other employment, is that correct?
 - A I contacted Local 28 in '65.
- Q You told us that was between 1964 -- is that the letter you wrote?
 - A The letter was in '64.
 - Q Right.
 - A I contacted them in '65 again.
- Q Was that before you went down to Maguire Air Force Base?
- A No. I went to Maguire Air Force Base in September of '65.
 - Q . Now, you say you spoke to Mr. Schluter some time

1	2 arsr	Petrie - direct 20	17
2	from 9:30	a.m. until 5:30 in the afternoon.	
3	Q	Five days a week or seven?	
4	.: A	Five days, both Spanish speaking answering an	đ
5	also had	the regular receptionist answering and taking	•
6	information	on.	
7	Q	Do you have copies of those ads with you?	
8	A	Yes, I do.	
9	Q	Is it in the briefcase?	
10	A	Yes.	
11		THE COURT: Is there any problem about this,	
12	Mr. Bogen	?	
13	•	MR. BOGEN: None. I haven't seen this versi	on .
14	but I have	e no objection.	
15		THE COURT: Let him see it.	
16		MR. BOGEN: No objection, your Honor.	
17		[Plaintiffs' Exhibit 121 received in	
18		evidence.]	
19	Q	The people answering the telephone, what did	they
20	do, Mr. P	etrie?	
21	A	They received information which the party cal	lled
22	in as a r	esult of the radio spots or newspaper spots.	
23	Q	What information did they receive?	
24	A	The name, telephone number, address, number of	of
25	years' ex	perience in sheetmetal work.	

A .

Q Did these people answering the telephone have any special instructions?

A The special instructions were they were not to supply any information, not give any information.

Q Would you say that again?

A Their instructions were they were only to receive phone information, not to give any information.

Q The information they were receiving, was this information you just described?

A That was being broadcast on the radio or available in the press.

Q How long were these telcphones staffed?

A The telephones were staffed for two weeks for this particular purpose. But any calls we received after that we answered, we took the information for another two weeks, we took the information and then after that I referred all telephone calls after two weeks, which was several months later we were still getting one or two or three or five calls, I referred directly to Mr. Adams' office.

Q What, if anything, did you do with the information that you collected, these people answering the telephone collected?

A . I sent it to Mr. Adams.

1	4 arsr Petrie - direct 2019
2	Q Did you compile a list of the information that
3	was taken by these people working in your office, Mr.
4	Petrie?
5	A Yes.
6	Q Do you have such a list with you?
7	A Yes.
8	Q And would you be good enough to produce that for
9	me?
10	What did you do with this list?
11	A The list I forwarded to Mr. Adams' office.
12	MS. GROSS: I would like to introduce this into
13	evidence.
14	MR. BOGEN: Your Honor, I have no objection to it
15	but I certainly would want a copy of it. I have never
16	seen it before.
17	MS. GROSS: I am sorry about that.
18	MR. BOGEN Before we conclude today, if I can
19	get a copy of this? I don't have any objection to it.
20	THE COURT: Sure.
21	Mr. Adams, you got the list and I presume it was
22	provided.
23	MR. ADAMS: I think I got this from Mr. Petrie.
24	I wasn't meaning to hold up its introduction. I just wanted
25	to make sure it was the same one.
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[Plaintiffs' Exhibit 122 received in evidence.]

THE COURT: Is this a list, Mr. Petrie, of the names of the persons from whom telephone calls were received during the four-week period?

THE WITNESS: The four-week period. There was another subsequent eight or ten which we did not record.

THE COURT: This is over a four-week period?
THE WITNESS: Yes.

- Q How many names on the list?
- A Approximately 58, I think.
- Q Do you know how many responses were received at the post office box number by the United States Attorney?
 - A I don't know, no.
- Q Mr. Petrie, did you make any evaluation of this campaign that you had conducted?
 - A Yes.
 - Q What was your evaluation?

MR. BOGEN: Objection, your Honor. I object to the evaluation. We got the campaign results in. I don't think there is any necessity for any evaluation.

MS. GROSS: This is precisely the point. This is why I wanted Mr. Petrie to describe the earlier

6 arsr

campaigns in which he was engaged. There is an interpretation when you are doing marketing and testing and that is why Mr. Bogen and the City hired a specialist.

MR. BOGEN: We certainly didn't hire him but that is unimportant.

THE COURT: We got the 58 names on the list. What kind of an evaluation do you make on that?

MS. GROSS: That is precisely what I wanted to elicit from this expert.

MR. BOGEN: I object, your Honor.

THE COURT: I will take it for what it is worth.

MR. BOGEN: I ask your Honor when you evaluate it to give very little if any at all.

THE COURT: I will evaluate his evaluation.

Q What was that evaluation, Mr. Petrie?

A Again, my evaluation was the result of the time span which we had to operate this campaign which was a two-week period, in terms of the media running one week when we had fourteen spots on one radio station and fourteen spots, two a day on another radio station, which is very minimal when you are talking to a total community in the Metropolitan Area.

First of all, when you are talking about the black radio, there are maybe six or seven radio stations

and we were only on one.

7 arsr

THE COURT: We heard all of this. We want to know what was your evaluation.

A The evaluation is there were at least ten times as many others to those who responded to this campaign on that list, because of the time and because of the limited amount of media used.

MR. BOGEN: I ask that that be stricken.

MS. GROSS: You have not permitted us to develop his expertise. You consented and he has done it and --

MR. BOGEN: Please direct your remarks to the Court rather than to me and I think we will move a little more directly. I object to it and I am asking that the matter be stricken.

THE COURT: I am going to accept it for what it is worth.

MR. BOGEN: And again I ask your Honor to give it very little credit if any at all.

Q Mr. Petrie, you stated that the campaign you conducted in this case was an informational campaign.

Was there a difference between an informational and recruitment campaign? Will you tell us what the difference is?

MR. BOGEN: Objection, your Honor.

1/28	1	
EEO V. Local 28	1	1 arsr 2076
1.lpm		1 arsr 2076
	2	AFTERNOON SESSION
	3	[2:00 p.m.]
9	4	MR. CORSI: The plaintiff calls Mr. Joseph
	5	C. Khurey.
	6	JOSEPH C. KHUREY, called as a
	7	witness on behalf of plaintiffs being first duly
	8	sworn was examined and testified as follows:
***	9	DIRECT EXAMINATION
	10	BY MR. CORSI:
	11	Q What is your address?
	12	A 249 Hopkinson Avenue, Brooklyn.
	13	Q How old are you, please?
	14	A I'm about 46 now.
	15	Q Where were you born?
	16	A I was born in Liberia, West Africa.
<	17	Q When did you come to this country?
	18	A I came this country about 1948, roughly 1948,
	19	1949.
	20	Q What is your present citizenship?
	21	A U.S.
	22	Q When did you become a U. S. citizen?
· O	23	A Around 1954.
	24	Q What is your educational background?
•	25	
	~	A I have high school and maybe one year of college.

1	2 arsr Khurey - direct 2	077
2	Q What did you study?	
3	A I took metallurgical engineering.	
4	Q Was that done in the United States?	
5	A Yes Long Island University.	· · · .
6	Q What is your present occupation?	
7	A Right now I am self-employed, sheetmetal	
8	mechanic, welder. Complete, I do fabrication, welder.	ding,
9	the finished product.	
10	Q Do you have a name or are you with a comp	any?
11	You say you are self-employed.	
12	A Khurey Precision Manufacturing & Welding	Company.
13	Q Where is that located?	
14	A 754 Lexington Avenue, Brooklyn.	
15	Q When was that company organized?	
16	A I started in business somewhere around ma	ybe
17	1965, 1964, 1965, as a welding shop when I started	off.
18	Q Let's step back to when you first came to	this
19	country. What kind of work did you do?	
20	A I was a busboy in a restaurant at Fifth	AVenue
21	and 36th Street.	
22	Q Mow long did you remain in that job?	
23	A About a year.	
24	Q At that time were you going to school?	
25	A I was going to night school, Brooklyn Aus	tomotive.

1	3 arsr	Khurey - direct
2	Q	What were you studying there?
3	A	Welding and auto mechanic.
4	Q	You say that you stayed there about a year as
5	a bus boy?	
6	Α.	Yes.
7	Q	What did you do?
8	A .	Dishwashing and bus boy.
9	. Q	What did you do after that?
10	A	After that I got me a job as a welder, arc welder.
11	Q	Where were you working?
12	A	I work for P. Feiner & Son, West 45th Street.
13	Q	What kind of work did P. Feiner & Son do?
14	A	They do sheetmetal work, steel products.
15	Q	You say that you were an arc welder?
16	A	Yes.
17	Q	What kind of things were you doing as a welder?
18	. А	As welder they bring to my booth parts already
19	prefabric	ated that have to be assembled according to sketch.
20	Q	How long did you stay at the P. Feiner Company ?
21	A	I stayed about two years.
22	Q	Where did you go or what did you do after that?
23	A	When I was with P. Feiner at the same time I
24	was going	to school, to night school.
25	Q	What were you studying?

1.	4 arsr Khurey - direct 2079
2	A I was going to Brooklyn Tech over here on DeKalb
3	Avenue.
4	Q What were you studying at Brooklyn Tech?
5	A Blueprint reading, mechanical drafting.
6	Q How long did you stay there?
7	A One year, I took a course.
8	Q You indicated that you had worked for P. Feiner
9	for one or two years.
10	A Yes.
11	Q What did you do after you left there?
12	A I worked for Supreme Metal Fabricators.
13	Q . How long did you work there?
14	A I was I would say about another two years with
15	Supreme, more than two years.
16	Q What kind of work did you do for them?
17	A Over there doing welding, grinding, assembling
18	sheetmetal products, kitchen equipment, woodwork.
19	Q After that employment with Supreme Metal, what
20	did you do after that?
21	A After Supreme Metal I work for Wakefield Tool
22	& Die, part of Wolf X-ray Products in Brooklyn.
23	Q What kind of work did you do at that company?
24	A That company, I was in charge of the Welding
-25	Department.

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Q What kind of work was done in the Welding Department?

A We was assembling sheetmetal products that had been prefabricated by the Press Department and from the Power Press Department and Press Brake and already formed that we have to assemble.

- Q How long did you stay with that company?
- A About four years.
- Q After that what did you do?

A After that I worked for one company, I can't recall the first name but bar and kitchen equipment.

It was on Skilman Street in Brooklyn near Myrtle Avenue.

Q What kind of work did you do for them?

A Sheetmetal work on kitchen equipment, making hoods, duct from galvanized and stainless steel, also steel.

Q How long did you work for them?

A I worked for them about two or three years.

Then I went on my own.

Q What kind of work was performed or is performed by your company?

A My company, after I bought the sheetmetal equipment, I was working from a sketch, blueprints and manufacturing according to specifications.

Q What kind of machinery did you have in your company?

A Power brake, power shear, power press, spot welder, AC-DC arc welding machine and handtools, roller, making pipe, blowpipe for chimneys and air conditioning.

Q What kind of sheetmetal work has the company done since it has been in existence?

- A Many various jobs.
- Q Have you done duct work?

A In small scale I have done because it is a shape job. You are called maybe for a twelve-foot duct of a given size but it is not under production duct work, no. Sometimes I make duct out of stainless steel for special use, for hoods in a restaurant.

Q When you first started your company, how many people worked in the company as sheetmetal people?

A I started by myself. I was working my shop and
I was in the daytime and at night time I work for Jetti
Company in Yonkers. They are out of business now.

Q What is the largest job in terms of number of men that you ever employed?

A In 1966 I had a very good year, at least forty men at that time. I had a contract from Springer Yarn in South Hackensack, New Jersey.

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work force in your shop?

A Well, after 1968, 1969 I had an average of six men working but now the shop has been closed because -- I don't have to tell you, it is bad business, no business.

Q During the time that you had five or six men working for you, can you tell us how many were black or Spanish?

A I would say maybe one black or two Spanish, two white.

1	G jw 1 Khurey-direct 2084
2	Q Have you ever heard of Local Union 28?
3	A I hadn't heard of Local Union 28 until
4	I was sent there by the Joint Apprenticeship?
5	Q And how was it that you were sent to Local
6	28 by Joint Apprenticeship?
7	A I didn't have no business. Since the shop
8	was closed, I was looking for work, you know.
9	Q When was this, sir?
10	A This must be somewhere around 1971.
11	Q And do you remember what time of the year
12	it was, approximately?
13	A Between summer and fall, around that time.
14	Q And so Joint Apprenticeship sent you to
15	Local 28?
16	A Yes.
17	Q And what did Joint Apprenticeship tell you?
18	A First I fill out an application down there
19	MR. BOGEN: I object at this point to what
20	they told him.
21	THE COURT: I'll sustain it.
22	MR. CORSI: I'll withdraw the question.
23	Q Did you go to Local 28?
24	A Yes.
25	Q And when you went to Local 28, what happened?

T2pm

xxx

CROSS E MINATION

BY MR. ADAMS:

Q Mr. Stack, you testified that you once personally worked on the New York Coliseum. What type of buildings does Local 28 do the bulk of its sheetmetal work in?

A We get into all buildings. We get into the residential field, we get into the New York Coliseum type of building, where there is recreation or exhibit halls, we get into the luxury office building type of thing, we get into hospitals, we get into laboratories. It depends, you know, on the nature of the job.

Q I wanted to concentrate for a minute on the luxury office buildings. I take it you would agree with me there have been quite a few built in the last ten or twelve years in New York City.

A Yes, sir.

Q And would you agree there have been quite a few built, say, over ten stories?

A Yes.

Q Do you know of any building in New York City that was of a luxury office building type over ten stories that was not worked on by Local 28 members.

A. No, I don't know of any building.

STIPULATION

It is stipulated by counsel that should additional pages of the transcript be necessary for inclusion in the Appendix that a Supplemental Appendix will be filed in the Court.

SOL BOGEN ONE PENN PLAZA NEW YORK, N. Y. 10001